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

Protection of Human Rights in the European Model of Democracy

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Ladies and gentlemen, esteemed colleagues,

it is a distinct honour to address you here at Université Panthéon Assas on the topic of "Protection of Human Rights in the European Model of Democracy." Today, I will focus on one of the most fundamental rights in any democratic society: freedom of expression. This right lies at the heart of the European model of democracy, and its protection by the European Court of Human Rights reflects the delicate balance between individual freedoms and the collective interests of a democratic society.

Introduction

To begin, let us acknowledge the inherent complexity in conceptualizing the European model of democracy. Our continent shares a rich tapestry of political systems, each woven with threads of shared values and distinct national traditions. These systems share similarities, but also considerable differences. So, what binds them together?

Let us consider that the essence of the European model of democracy is not a single institutional blueprint, but our shared values: democracy, human rights, and the rule of law. All 46 member states of the Council of Europe, from long-established democracies to newer ones, subscribe to these three core values.

These values are inextricably linked; each serving to uphold and balance the others. Democracy is not just majority rule; it is majority rule constrained and guided by law and by respect for individual rights. Human rights, in turn, are safeguarded and enforced by the rule of law and they flourish best in a democratic polity. The rule of law itself draws legitimacy from democratic participation and must be harnessed to protect fundamental rights. In a very real sense, each of these three is incomplete without the others. In fact, the achievement of human rights, pluralist democracy, and the rule of law is regarded as “a single objective - the core objective” of the Council of Europe.[1]

[1] Rule of Law Checklist adopted by the Venice Commission of the Council of Europe at its 106th Plenary Session (Venice, 11-12 March 2016)

However, these values also act as checks and balances, restricting each other to prevent excesses and ensure a harmonious coexistence. For example, democracy, if left unrestricted by the rule of law and human rights, can degenerate into a tyranny of the majority. Likewise, if laws would be imposed without the consent or participation of the people, rule of law would lack legitimacy and become a mere authoritarianism in legal dress. Similarly, if human rights are fully unrestricted, they could potentially undermine democracy and the rule of law. For example, freedom of expression is vital to democratic debate, but absolute freedom of expression could lead to the spread of hate speech or misinformation, which could destabilize democratic processes and erode public trust in institutions thereby threatening the very democratic values it is meant to uphold.

As this last example shows, in the European model of democracy human rights are fundamental but not absolute. They must be balanced with the needs of a "democratic society", to which European Convention on Human Rights refers in Articles 8 to 11 of the Convention and Article 2 of Protocol No. 4 thereto.

But what is a "democratic society"?

A very general answer to that question can be found in the case-law of the European Court of Human Rights which held that a democratic society supposes "pluralism, tolerance and broadmindedness"[2]. It has also clarified that "democracy cannot be reduced to the will of the majority of the electorate and elected representatives, in disregard of the requirements of the rule of law."[3] This already tells us a lot but not enough.

To get a more detailed answer on how we in Europe understand a democratic society, I consider that the best way is through a specific freedom that tests the balance of democracy and human rights: freedom of expression. I further posit that the way we treat freedom of expression reflects our comprehension of democracy. Therefore, we should examine, using the concrete examples from the Court's case-law, how the notion of a democratic society is used by the Court to justify or condemn interferences with freedom of expression.

This analysis should, at the same time, provide us with an example how human rights are protected in the European model of democracy.

However, to better understand this model, we first need some historical background.

Historical background

The intellectual roots of European model democracy lie, *inter alia*, in the Enlightenment, where thinkers like Voltaire, Montesquieu, and Locke championed reason, liberty, and the idea that all individuals possess inherent rights simply by virtue of being human. Montesquieu advocated the rule

[2] See, for example, *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24, and *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 175, 15 November 2018

[3] *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, § 412, 9 April 2024.

of law and separation of powers to prevent tyranny. Voltaire defended freedom of religion and expression.[4]

These ideas culminated politically in the French Revolution of 1789. When the revolutionaries adopted the Declaration of the Rights of Man and of the Citizen that year, it marked a definitive break with what many would indeed call a "dark past".

Crucially for our topic, Article 11 of the Declaration of the Rights of Man states: *"The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law."*

This powerful statement contains a dual truth that is very much alive in the European model today. On one hand, it celebrates free communication of ideas as *precious* – a core right without which other rights might mean little. On the other, it acknowledges that freedom can be abused, and that individuals are accountable for such abuses. Thus, even at its revolutionary birth, freedom of expression in France was seen as both essential and bounded by law.

Sounds familiar? It should – this is essentially the principle later embedded in Article 10 of the European Convention on Human Rights which in its paragraph 2 warns that the exercise of freedom of expression "carries with it duties and responsibilities". We see continuity from 1789 to the modern framework: liberty intertwined with responsibility.

In contrast, a comparison between Article 11 of the Declaration of the Rights of Man and the American Bill of Rights of 1791 – adopted as amendments to the 1787 US Constitution – reveals a distinctly different model for protecting freedom of expression. Specifically, unlike the Declaration, the First Amendment does not have a limitation clause and reads "Congress shall make no law … abridging the freedom of speech, or of the press ...".

I will now fast-forward several centuries to the mid-1930s, a time when one European country after another fell under the sway of authoritarian movements – groups that exploited democratic processes to undermine and ultimately dismantle liberal democracy from within. The paradigmatic example was Germany, where Joseph Goebbels infamously gloated after the Nazi's legal seizure of power: "It will always remain one of the best jokes of democracy that it provided its mortal enemies itself with the means through which it was annihilated."

This tragic irony set the stage for the cataclysm that followed. If 1789 marked one revolutionary break with the past, 1945 was another, on a civilizational scale. The unprecedented devastation, brutality, and human suffering of the World War II, culminating in the horrors of the Holocaust, left deep scars across the continent. In the aftermath, Europe was morally determined that such atrocities must never be allowed to happen again. European leaders came to recognize that these horrors had been made

[4] Voltaire is often associated with the famous line, "I disapprove of what you say, but I will defend to the death your right to say it," capturing the spirit of intellectual tolerance.

possible by totalitarianism's systematic erosion of human dignity, breaches of human rights and suppression of democratic principles.

As Pierre-Henri Teitgen, a French jurist, resistance fighter, and one of the architects of the post-war human rights system, famously noted: "Democracies do not become Nazi states overnight. Evil operates cunningly. One by one, freedoms are suppressed, in one sphere after another. Public opinion and the entire national conscience is asphyxiated … It is necessary to intervene before it is too late. A conscience must exist somewhere which will sound the alarm…."[5] Teitgen, who had been imprisoned by the Gestapo, emerged from the war utterly convinced that democracies must arm themselves with legal defences against the slow erosion of liberty.

The result of this resolve was the European Convention on Human Rights, opened for signature in 1950 in Rome. The Convention was very much a Franco-British initiative at first, driven by figures like Teitgen and supported by statesmen such as Winston Churchill. Another famous French jurist, René Cassin, who had co-authored the Universal Declaration of Human Rights in 1948, played significant roles in shaping the Convention by lending his expertise and moral authority to Europe's own human rights treaty.

The Convention was envisioned as a safeguard for democratic stability in Europe, serving as a collective action pact to prevent countries from sliding back into totalitarianism. It functioned as an early warning system, triggered by individual applications, designed to identify and counteract any gradual regression from democratic principles.

In that regard, it is worth noting how openly the Convention aligns itself with a specific political model – and how unequivocally committed it is to the principles of democracy. Its preamble speaks of governments that are "like-minded" and have "a common heritage of political traditions, ideals, freedom and the rule of law" and declares that human rights and fundamental freedoms are best maintained "by an effective political democracy". It explicitly requires that any interference with its qualified rights be, among other things, "necessary in a democratic society".

In addition, the Convention also establishes mechanisms to hold States or individuals accountable for abusing permissible limitations or engaging in acts that undermine the rights and freedoms enshrined in the Convention. For example, Article 17 of the Convention prohibits the "abuse of rights" – meaning no one may use the Convention's rights to destroy the rights and freedoms of others or to subvert the Convention's principles.[6] This clause was aimed at extremists who might invoke human rights to shield anti-democratic activity. Similarly, Article 18 stipulates that restrictions on human rights permitted under the Convention must not be used for purposes other than those for which they were prescribed.

The involvement of figures like Cassin and Teitgen – both French, both deeply scarred by war – highlights France's philosophical contribution, from 1789 to 1950, in forging a European model where democracy and rights are inseparable. The Convention thus connected Enlightenment ideals with post-WWII urgency.

[5] Tietgen's speech cited in Janis, Richard and Bradley, *European Human Rights Law*, 3rd Edition, OUP, 2008, p. 16.

[6] Article 17 reads: "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

The Convention's drafters had fresh memories of how free speech had been one of the first victims of authoritarian takeovers – and conversely how poisonous propaganda had helped totalitarians into power. Thus, they were intent on strongly protecting freedom of expression, while also recognizing that democracy must sometimes defend itself from speech that threatens the rights and safety of others. The idea was clear: "never again" should Europe allow the level of hatemongering and censorship that paved the way to World War II.

Therefore, freedom of expression, enshrined in Article 10 of the Convention, reflected that same duality we saw in the French Declaration of the Rights of Man and of the Citizen. Article 10 § 1 guarantees everyone the right to hold opinions and to receive and impart information and ideas without interference.[7] Article 10 § 2 then acknowledges that, since the exercise of this freedom carries "duties and responsibilities," it may be subject to certain restrictions that are "necessary in a democratic society" for legitimate aims like protecting the reputation or rights of others, national security, public order, and so forth.[8]

In short, the European model that emerged post-1945 places democracy, human rights, and rule of law in a mutually reinforcing triangle: a lesson learned through great bloodshed. This historical context is essential for understanding how we in Europe approach human rights today – especially freedom of expression, which was recognized both in 1789 and 1950 as a cornerstone of liberty, but which we treat with a distinctive balancing approach.

So, with this context in mind, let us turn to freedom of expression itself and examine the European model at work in concrete cases.

Protection of Freedom of Expression in the European Model

Freedom of expression occupies a prominent place among the Convention rights.

In the landmark case of *Handyside v. the United Kingdom* the European Court of Human Rights has referred to freedom of expression as one of the essential foundations of a democratic society and "one of the basic conditions for its progress and for the development of every man".[9]

In the same judgment the Court has vividly reminded us that the freedom of expression extends "not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'."[10]

[7] Article 10 § 1 of the Convention reads: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."

[8] Article 10 § 1 of the Convention reads: "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

[9] *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24.

[10] Ibid.

That quotation has been the banner for free speech in Europe ever since – it firmly established that robust debate and even provocation are part of democratic life, and that uncomfortable speech is the price of pluralism.

So, at first blush, this standard sounds very liberal, very protective – nearly absolutist in rhetoric.

However, as we have noted from historical-philosophical context I described, the European model does not consider freedom expression as unrestricted. This contrasts with the approach in the United States, where the First Amendment is interpreted in a far more categorical manner, granting speech a near-absolute protection in many areas, even at the expense of other values.

To better illustrate the European model, let us examine the limits of freedom of expression in the context of hate and racist speech – a phenomenon that challenges the very ideals that freedom of expression is meant to protect. A critical concern in the debate about hate speech is the potential risk of democracy destroying itself in the process and under the cloak of defending itself – a phenomenon often referred to as the democratic paradox or democratic dilemma.[11]

The case of *Jersild v. Denmark*[12] illustrates the importance of context in assessing journalistic responsibility. The case concerned the applicant, a television journalist, who was convicted for aiding and abetting the dissemination of racist remarks during an interview televised with members of a neo-Nazi youth group. The remarks made by the interviewees were overtly offensive and racist. Yet the journalist's intent was to expose and critically examine their views.

The Court considered that applicant's conviction had not been necessary in a democratic society and found a violation of his freedom of expression. It emphasized that the applicant was a journalist bringing public attention to the racist group as a news story, not endorsing their views. The interview had an evident public interest: it revealed the existence and nature of extremist ideologies in Denmark. The Court thus drew a crucial distinction between promoting hate speech and reporting on it. It held that punishing a journalist for assisting in the dissemination of statements made by others in an interview would seriously hamper the press in performing its role as "public watchdog". Doing so had a chilling effect on media coverage of important social issues like racism.

The case shows that even repugnant speech (racist remarks) may receive protection if, for example, it is part of news reporting in the public interest.[13] The decision affirmed the media's "watchdog" role and signalled that Europe's hate speech laws should not be used to inadvertently muzzle journalism or public debate.

[11] The Court has often referred to this phenomenon in secret surveillance cases examined under Article 8 of the Convention. See, for example, *Roman Zakharov v. Russia* [GC], no. 47143/06, § 232, ECHR 2015, and *Big Brother Watch and Others v. the United Kingdom* [GC], nos. 58170/13 and 2 others, § 339, 25 May 2021.

[12] *Jersild v. Denmark*, 23 September 1994, Series A no. 298

[13] For a similar case see *RID Novaya Gazeta and ZAO Novaya Gazeta v. Russia*, no. 44561/11, 11 May 2021, which concerned an article with quotations from manifesto of controversial nationalist group and symbols resembling Nazi ones.

In *Féret v. Belgium*[14] the applicant was a Belgian politician and a member of the Belgian Parliament. Leaflets and posters distributed by his party in an election campaign led to complaints of incitation to hatred, discrimination and violence. The leaflets presented non-European immigrant communities (particularly Muslims) as criminally-minded and keen to exploit the benefits they derived from living in Belgium, and also sought to make fun of them, with the inevitable risk of arousing feelings of distrust, rejection or even hatred towards foreigners.[15] He was convicted under Belgian law for inciting hatred.

The Court considered that the applicant's conviction had been necessary in a democratic society and found no violation of the Convention. It emphasized that as a politician, the applicant's racist pamphlets went against the core values of the Convention. It noted that freedom of expression is vital for politicians, but that hate speech, even under the guise of political discourse, cannot claim protection under Article 10. In a democracy built on pluralism, it is legitimate to sanction a political speech that promotes racial or ethnic hatred, because such rhetoric undermines the rights and freedoms of others (in this case, immigrant communities' dignity and security).

This outcome underscores how tolerance and broadmindedness can take precedence over an individual's speech when that speech seeks to exclude or vilify a section of the population.

The contrast with *Jersild* is instructive: while *Jersild* protected critical journalistic inquiry into racist views, *Féret* sanctioned active dissemination of such views by a public official.

The case of *M'Bala M'Bala v. France*[16] concerned a criminal conviction of a comedian for expression of negationist and anti-Semitic views. During his show, the applicant invited an academic, a known Holocaust denier, to join him on stage at the end of the show to receive a "prize for unfrequentability and insolence." This prize was presented by an actor dressed in attire resembling that of Jewish deportees during the Holocaust, complete with a yellow star bearing the word "Jew". The prize took the form of a three-branched candlestick (the seven-branch candlestick, menorah, being an emblem of the Jewish religion), with an apple crowning each branch.

The Court found that during the offending scene the performance could no longer be seen as entertainment but rather resembled a political meeting, which, under the pretext of comedy, promoted negationism through the key position given to appearance of the academic in question and the degrading portrayal of Jewish deportation victims faced with a man who denied their extermination. In the Court's view, this was not a performance which, even if satirical or provocative, fell within the protection of Article 10 of the Convention. Rather, in the circumstances of the case, it was a demonstration of hatred and anti-Semitism and support for Holocaust denial. Disguised as an artistic production, it was in fact as dangerous as a head-on and sudden attack, and provided a platform for an ideology which was at odds with the basic Convention values of justice, peace,

[14] *Féret v. Belgium*, no. 15615/07, 16 July 2009

[15] See also *Zemmour v. France*, no. 63539/19, 20 December 2022, which 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, and in which the Court likewise held that that the his conviction had been necessary in a democratic society and found no violation of Article 10 the Convention.

[16] *M'Bala M'Bala v. France* (dec.), no. 25239/13, 20 October 2015

tolerance, or non-discrimination. Applying Article 17 of the Convention in conjunction with Article 10, the Court declared the case inadmissible.[17]

In *Perinçek v. Switzerland*[18] the applicant, a Turkish politician, was convicted by Swiss courts under laws prohibiting Holocaust denial and the denial of other genocides, for publicly disputing that the mass killings of Armenians in 1915 constituted genocide.

Notably, the Court did not dispute the characterization of the Armenian genocide but focused narrowly on whether the applicant's criminal conviction had been necessary in a democratic society to protect the rights of the Armenian community. In its view, it was not and thus amounted to a violation of his freedom of expression.

In so deciding the Court took into account a number of elements, namely that the applicant's statements had related to a matter of public interest and had not amounted to a call for hatred or intolerance, that the context in which they had been made had not been marked by heightened tensions or special historical overtones in Switzerland, that the statements could not be regarded as having affected the dignity of the members of the Armenian community to the point of requiring a criminal-law response in Switzerland, that there had been no international law obligation for Switzerland to criminalise such statements, that the Swiss courts appeared to have censured the applicant for voicing an opinion that diverged from the established ones in Switzerland, and that the interference with his freedom of expression had taken the serious form of a criminal conviction.

This decision is particularly noteworthy because it underscores the Court's nuanced approach to the issue of hate speech, and its hesitancy to allow blanket prohibitions on speech that, however offensive, does not directly promote violence or hatred. It suggests that, while historical denial and revisionism can be harmful, the right to express dissenting historical opinions should be protected in certain contexts, particularly when there is no clear incitement to hatred or violence.

In a more recent case, *Sanchez v. France*[19], the Court examined for the first time, the question of the liability of users of social networks on account of comments by third parties. The applicant, an elected politician was convicted and fined for failing to delete from his publicly accessible Facebook "wall" used for his election campaign Islamophobic comments by third parties who were also convicted. Though he had not authored the comments himself, he failed to remove them.

The Court underlined, in particular, that the applicant's Facebook "wall" was not comparable to a "large professionally managed Internet news portal run on a commercial basis", and rather approached the case in the light of "duties and responsibilities" attributable to politicians when they decided use social networks for political purposes, in particular for an election campaign, by opening fora that were accessible to the public on the Internet in order to receive their reactions and comments.

[17] For another case in which the Court applied Article 17 in the context of Holocaust denial, see *Garaudy v. France* (dec.), no. 65831/01, 25 March 2003.
[18] *Perinçek v. Switzerland* [GC], no. 27510/08, ECHR 2015 (extracts)
[19] *Sanchez v. France* [GC], no. 45581/15, 15 May 2023

In this context, the Court emphasised the fact that an account holder could not claim any right to impunity in his or her use of electronic resources made available on the Internet and that such a person had a duty to act within the confines of conduct that could reasonably be expected of him or her.

In the latter connection, a degree of notoriety was a relevant factor: a private individual of limited notoriety and representativeness would have fewer duties than a local politician and a candidate standing for election to local office, who in turn would have a lesser burden than a national figure for whom the requirements would necessarily be even heavier, on account of the weight and scope accorded to his or her words and the resources to which he or she would enjoy greater access in order to intervene efficiently on social media platforms. Noting that the applicant had not taken timely steps to review the posted comments and delete those that had been clearly unlawful, and that the domestic courts had given reasoned decisions based on the reasonable assessment of the facts, the Court concluded that the applicant's conviction had been necessary in a democratic society and found no violation of Article 10 of the Convention.

This judgment aligns with the Court's evolving understanding of online spaces and responsibilities. While acknowledging the benefits of the Internet, the Court has also recognised that these are accompanied by a number of dangers, in that clearly unlawful speech, including hate speech and speech inciting violence, can be disseminated like never before, worldwide, in a matter of seconds, and sometimes remain persistently available online.[20]

It also epitomises the Court's interpretation of the Convention as a "living instrument", evolving to meet contemporary challenges. As the Court has often stated, the Convention as is not a static document but one a requiring a dynamic and evolutive approach that reflects present-day conditions.[21] This approach ensures that the rights guaranteed by the Convention remain practical and effective, rather than theoretical or illusory.[22]

When comparing the Court's approach to hate speech with that of the US Supreme Court, significant differences emerge.

In the US the protection of free speech under the First Amendment, as its wording suggests, is far more categorical. The US Supreme Court has therefore repeatedly affirmed that hate speech is protected by the First Amendment, as long as it does not directly incite imminent criminal acts or include specific threats (see *Brandenburg v. Ohio*, 1969[23]). A stark example is the *Skokie* case (*National Socialist Party of America v. Village of Skokie,* 1977) in which American courts (and ultimately the Supreme Court, implicitly) allowed a neo-Nazi group to march through a town inhabited by many Holocaust survivors, wearing swastikas, under the principle that the Government cannot suppress expression simply because it is offensive or hateful. In Europe, such expression would likely be prohibited under laws banning hate speech or Nazi symbolism.

[20] See, for example, *Delfi AS v. Estonia* [GC], no. 64569/09, § 110, ECHR 2015, and *Annen v. Germany*, no. 3690/10, § 67, 26 November 2015
[21] *Tyrer v. the United Kingdom*, 25 April 1978, § 31, Series A no. 26
[22] See, for example, *Airey v. Ireland*, 9 October 1979, § 24, Series A no. 32, and *Artico v. Italy*, 13 May 1980, § 33, Series A no. 37.
[23] Brandenburg was a Ku Klux Klan leader convicted under a state law for advocating violence. The Supreme Court reversed his conviction, holding that "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

In *RAV v. City of St. Paul* (1992), the US Supreme Court, with the same reasoning, struck down a local ordinance that criminalized placing symbols like a burning cross or swastika on others' property.[24]

This illustrates a philosophical divergence: the US tends to treat even heinous speech as a cost of liberty, to be countered by more speech (counter-protests, condemnation, etc.), whereas Europe is more willing to use law to draw boundaries, believing that some forms of expression undermine the rights of others or the democracy itself.

Final Reflections

In conclusion, the European model of democracy is not a blueprint of institutions, but a shared and living commitment to a set of values: democracy, human rights, and the rule of law, all at once. These values do not stand alone – they form a mutually reinforcing framework in which each depends on the others to thrive.

Within this triangle, human rights are fundamental but not limitless. They must be interpreted in light of the needs of a democratic society, where rights coexist and sometimes compete. At the heart of this delicate balance lies freedom of expression, which is both a right and a responsibility. It fuels public debate, but also tests the limits of tolerance. It must be robust enough to embrace dissent and withstand provocation, yet discerning enough to recognize when speech ceases to serve democracy and becomes a tool for undermining dignity, equality, or peace.

The European Court of Human Rights has responded to this challenge with a nuanced, contextual, and value-driven jurisprudence which aims to carefully balance that freedom with the needs of democratic society and find a proportionate solution in each situation. The Court neither sanctifies expression unconditionally nor curtails it lightly. Instead, its jurisprudence reflects an understanding that in a pluralistic, democratic society, freedom of expression must be preserved not only from censorship, but also from instrumentalization by those who would weaponize words to spread hatred or erode fundamental rights.

Today, we face new challenges: the digital wildfire of fake news, the resurgence of extremist ideologies, the delicate question of how to regulate global tech platforms – to name a few. These are complex challenges with no easy answers. Yet the European model offers a principled and thoughtful path forward. It does not promise simplicity, but it provides a framework – rooted in painful history, shaped by experience, and guided by enduring values – for protecting freedom of expression in a way that strengthens, rather than endangers, democracy.

For those who advocate simple solutions to complicated societal issues such as these ones, I refer to the saying that "For every complex problem, there is a solution that is simple, clear, and wrong".[25]

[24] Notably, a later case, *Virginia v. Black* (2003), allowed a narrowly drawn ban on cross-burning with intent to intimidate, as a true threat; but generally, US law remains extremely hesitant to prohibit hate speech per se.

[25] The quote is attributed to H.L. Mencken, an American journalist, essayist, and social critic, and reflects his belief that oversimplifying complex problems often leads to misguided or incorrect solutions.

As we continue the discussion – here today, in the courts, in the public sphere – let us do so with the pluralism, tolerance, and broadmindedness that truly define a democratic society.

Thank you for your attention! I look forward to your questions.