**Summary and outcome**

The Fifth Section of the European Court of Human Rights found the application to be manifestly ill-founded under Article 35(3)(a) of the European Convention on Human Rights, thereby declaring it inadmissible as per Article 35(4).  The applicant, a bishop at the material time, was temporarily in Germany for the consecration of a Swedish pastor as a deacon. He gave an interview to a Swedish television program during which he alleged that the Nazis did not have gas chambers nor did they murder six million Jews. Der Spiegel published an article quoting the applicant's statements. The German courts found him guilty of incitement to hatred on the grounds of his statements and was subject to a 90 days fine of 20 EUR each.  In reaching its decision, the European Court of Human Rights referred to Germany's 'historical role and experience,' [para.27] the 'very lenient' penalty imposed [para.27] and the fact that the 'applicant's denial and downplaying of the genocide perpetrated against Jews had disparaged the dignity of the Jewish victims and had been capable of severely disturbing the public peace in Germany.' [para.26].

**Facts**

The applicant, Richard Williamson was a bishop at the material time of the incident and impugned speech. A journalist of the Swedish television channel SVT-1 interviewed Williamson while he was temporarily in Germany. The focus of the interview were religious matters. After about 45 minutes of religious discussion, the journalist asked questions regarding the Holocaust. The applicant stated, amongst other things, that he did not believe there were gas chambers at concentration camps nor that six million Jews had been killed. Instead, he said that he believed that no more than two or three hundred thousand Jews had died at Nazi concentration camps. The television channel broadcasted the interview, this was then made available on satellite, as video on demand and later on YouTube. Der Spiegel published an article which quoted the applicant's statements about the gas chambers during the Holocaust. Following that, several German media outlets reported on these statements. After a request put forth by the public prosecutor, a district court found him guilty of incitement to hatred under Article 130(3) of the German Criminal Code. The applicant complained to the European Court of Human Rights that his Article 10 rights had been violated due to his criminal conviction.

**Decision overview**

The Fifth Section of the European Court of Human Rights unanimously found the application to be manifestly ill-founded within the meaning of Article 35(3)(a) of the European Convention on human rights and, as such, declared it inadmissible in line with Article 35(4).

The main issue before the court was ascertaining whether the criminal penalty imposed on the applicant for his interview statements amounted to a violation of his rights under Article 10.

The applicant argued that his criminal conviction for incitement to hatred due to his interview statements amounted to a violation of his Article 10 rights, noting also that the German law relied on was not applicable since the interview had not been given in Germany and that he had never intended for his statements to be made public in Germany. However, the ECtHR held that the applicant knew that the statements he made were subject of criminal liability in Germany but had not made any statement during the interview for its non-broadcast in Germany nor made other arrangements with channel or interviewer for the interview not be aired/published in Germany. [para.24]

The main issue before the ECtHR was whether the interference with the applicant's right to freedom of expression was necessary in a democratic society. In relation to this, it also had to assess the applicant's complaint as to whether the German law was wrongfully applied in relation to whether the alleged offence had been committed (Sweden).

Quoting [M’Bala M’Bala v.](https://globalfreedomofexpression.columbia.edu/cases/mbala-v-france-no-2523913/)France and in relation to the application of domestic law, the ECtHR underlined that national authorities had the first say in interpreting and applying national law with the objective to review national decisions in light of Article 10 but also in line with the margin of appreciation. The ECtHR relied on previous case law which developed the relevant principles, referring to their summary set out in [Perinçek v Switzerland](https://globalfreedomofexpression.columbia.edu/cases/ecthr-perincek-v-switzerland-no-2751008-2013/). It reiterated that fact that previous case law developed both by the former Commission and the Court itself declared cases involving Holocaust denial inadmissible.

The court placed emphasis on the German experience with Nazis, noting that the Court had 'always been sensitive to the historical context' [para.27] of the country concerned. It made a link between such context and the finding of a pressing social need to restrict convention rights since states which have experienced Nazism could be viewed as having a 'special moral responsibility to distance themselves from the mass atrocities perpetrated by the Nazis.' [para.27]. At the same time, the Court noted that the penalty imposed on Williamson was 'very lenient.' [para.27].

In light of the above, the ECtHR declared the application inadmissible.

**Decision direction**

The case contracts expression since the Court noted from the very onset of the analysis of the relevant law that given the context and facts, the application is inadmissible. It then referred to a previous case against Switzerland ([Peri](https://globalfreedomofexpression.columbia.edu/laws/ecthr-perincek-v-switzerland-application-no-27510-08-2015/)  which involved the finding of a violation of Article 10 in the context of the denial of the Armenian genocide. Interestingly, it made no reference to previous Holocaust denial cases apart from the [M'Bala M'Bala v France](https://globalfreedomofexpression.columbia.edu/cases/mbala-v-france-no-2523913/) case which it briefly mentioned. Given that from the start the court considered the application inadmissible, the decision did not include a comprehensive evaluation of whether Article 10 had been legitimately restricted.