

دليل إرشادي حول تطبيق المادة ١٠ من الاتفاقية الأوروبية لحقوق الإنسان*

تأليف / مونیکا ماكوفي**

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¹ Introduction to European Convention on Human Rights – Collected texts, Council of Europe, 1994.

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² In accordance with Protocol No.11, the European Commission and the European Court on Human Rights joined together in a single body, the European Court of Human Rights.

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³ Jochen Abr. Frowein, "Freedom of expression under the European Convention on Human Rights", in Monitor/Inf (97) 3, Council of Europe.

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⁴ Lingens v. Austria, 1986; Sener v. Turkey, 2000; Thoma v. Luxembourg, 2001; Maronek v. Slovakia, 2001; Dichand and Others v. Austria, 2002, etc. A table of cases cited in this study appears on page 61.

⁵ Castells v. Spain, 1992; Prager and Oberschlick v. Austria, 1995.

⁶ Kühnen v. the Federal Republic of Germany, 1988; D.I. v. Germany, 1996.

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" Committee of Ministers

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⁸ Report of the Committee of Ministers, in *Theory and Practice of the European Convention on Human Rights*, Van Dijk and Van Hoof, Kluwer, 1990, p. 413.

⁹ *Vogt v. Germany*, 1995.

¹⁰ *Handyside v. the United Kingdom*, 1976.

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¹¹ Lingens v. Austria, 1986; Sener v. Turkey, 2000; Thoma v. Luxembourg, 2001; Dichand and Others v. Austria, 2002, etc.

¹² Groppera Radio AG and Others v. Switzerland, 1990; Casado Coca v. Spain, 1994.

¹³ Markt Intern Verlag GmbH and Klaus Beermann v. the Federal Republic of Germany, 1989.

¹⁴ Otto-Preminger Institut v. Austria, 1994.

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Dalban

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¹⁵ Lings v. Austria, 1986; Jerusalem v. Austria, 2001; Dichand and Others v. Austria, 2002.

¹⁶ Dalban v. Romania, 1999.

¹⁷ Ibidem.

¹⁸ Jerusalem v. Austria, 2001; Dichand and Others v. Austria, 2002.

¹⁹ Autronic AG v. Switzerland, 1990.

Lingens

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²⁰ Lingens v. Austria, 1986.

²¹ See below, page 12.

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Thorgeirson

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Maronek

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²² Thorgeir Thorgeirson v. Iceland, 1992.

²³ Maronek v. Slovakia, 2001.

²⁴ Sürek and Özdemir v. Turkey, 1999; Sener v. Turkey, 2000; Özgür Gündem v. Turkey, 2000.

Jersild and Thoma

Thoma

²⁵ See above, page 11.

²⁶ See above, page 12.

²⁷ *Jersild v. Denmark*, 1994; *Thoma v. Luxembourg*, 2001.

: Goodwin

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Informationsverein Lentia

: *Groppera*

²⁸ Goodwin v. the United Kingdom, 1996.

²⁹ Informationsverein Lentia and Others v. Austria, 1993.

³⁰ Observer and Guardian v. the United Kingdom, 1995; Informationsverein Lentia and Others v. Austria, 1993.

³¹ Groppera Radio AG and Others v. Switzerland, 1990.

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Autronic AG

Tele 1

Privatfernsehgesellschaft MBH

Austrian Broadcasting

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³² Autronic AG v. Switzerland, 1990.

³³ Tele 1 Privatfernsehgesellschaft MBH v. Austria, 2001.

³⁴ Informationsverein Lentia and Others v. Austria, 1993.

³⁵ Markt Intern Verlag GmbH and Klaus Beermann v. the Federal Republic of Germany, 1989.

³⁶ Müller and Others v. Switzerland, 1988.

³⁷ Chorherr v. Austria, 1993.

³⁸ Stevens v. the United Kingdom, 1986.

³⁹ Oberschlick v. Austria, 1991; Thoma v. Luxembourg, 2001; Dichand and Others v. Austria, 2002; Nikula v. Finland, 2002.

⁴⁰ Handyside v. the United Kingdom, 1976.

⁴¹ Groppera Radio AG and Others v. Switzerland, 1990.

⁴² Müller and Others v. Switzerland, 1988.

⁴³ Otto-Preminger Institut v. Austria, 1994.

⁴⁴ *On Liberty* (1859), Penguin Classics, 1985, p. 76.

⁴⁵ *Handyside v. the United Kingdom*, 1976; *Sunday Times v. the United Kingdom*, 1979; *Lingens v. Austria*, 1986; *Oberschlick v. Austria*, 1991; *Thorgeir Thorgeirson v. Iceland*, 1992; *Jersild v. Denmark*, 1994; *Goodwin v. the United Kingdom*, 1996; *De Haes and Gijssels v. Belgium*, 1997; *Dalban v. Romania*, 1999; *Arslan v. Turkey*, 1999; *Thoma v. Luxembourg*, 2001; *Jerusalem v. Austria*, 2001; *Maronek v. Slovakia*, 2001; *Dichand and Others v. Austria*, 2002.

⁴⁶ *Thorgeir Thorgeirson v. Iceland*, 1992.

⁴⁷ *Jersild v. Denmark*, 1994.

Dalban

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Arslan

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Lopes Gomes da Silva

Resende

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Haider

Oberschlick ()

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⁴⁸ *Dalban v. Romania*, 1999. Similarly in *Prager and Oberschlick v. Austria*, 1995; *Dichand and Others v. Austria*, 2002.

⁴⁹ *Arslan v. Turkey*, 1999.

⁵⁰ *Lopes Gomes da Silva v. Portugal*, 2000.

⁵¹ *Oberschlick v. Austria* (No. 2), 1997.

Sürek ()

Sürek ()

52

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Karatas

⁵² Sürek v. Turkey (No. 3), 1999.

⁵³ Sürek v. Turkey (No. 4), 1999.

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⁵⁴ Karataş v. Turkey, 1999.

⁵⁵ Kühnen v. the Federal Republic of Germany, 1988.

D.I. v. Germany

Auschwitz

57

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⁵⁹ *Leander*

⁶⁰ *Gaskin*

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<http://www.ushmm.org/education/foreducators/guidelines/> .

⁵⁷ D.I. v. Germany, 1996. Similar decisions in Honsik v. Austria, 1995 and Ochensberger v. Austria, 1994.

⁵⁸ Article 3 of the Protocol to the Convention.

⁵⁹ Leander v. Sweden, 1987.

⁶⁰ Gaskin v. the United Kingdom, 1989.

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⁶¹ Z. v. Austria, 1988.

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Engel and Others

Hadjianastassiou

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[KETA]

Engel and

Others

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Vereinigung Demokratischer Soldaten Österreichs und Gubi

⁶² Engel and Others v. the Netherlands, 1976.

⁶³ Hadjianastassiou v. Greece, 1992.

⁶⁴ Vereinigung Demokratischer Soldaten Österreichs und Gubi v. Austria, 1994.

Rommelfanger

Vogt

⁶⁵ Rommelfanger v. the Federal Republic of Germany, 1989.

⁶⁶ Vogt v. Germany, 1995.

Wille

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⁶⁷ Wille v. Liechtenstein, 1999.

Observer and Guardian

Sener

⁶⁸ *Observer and Guardian v. the United Kingdom*, 1991.

⁶⁹ *Fressoz and Roire v. France*, 1999; *Bergens Tidende and Others v. Norway*, 2000.

⁷⁰ *Sener v. Turkey*, 2000.

⁷¹ *Ibidem*.

⁷² Ibidem.

⁷³ Barfod v. Denmark, 1989; Lingens v. Austria, 1986; Dalban v. Romania, 1999.

⁷⁴ Müller and Others v. Switzerland, 1988.

⁷⁵ Sunday Times (No. 2) v. the United Kingdom, 1991; Observer and Guardian v. the United Kingdom, 1991.

⁷⁶ News Verlags GmbH & CoKG v. Austria, 2000.

⁷⁷ Handyside v. the United Kingdom, 1976; Müller and Others v. Switzerland, 1988.

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Gaweda

⁷⁸ Autronic AG v. Switzerland, 1990.

⁷⁹ Goodwin v. the United Kingdom, 1996.

⁸⁰ Wille v. Liechtenstein, 1999.

Castells

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⁸¹ Gaweda v. Poland, 2002.

⁸² Castells v. Spain, 1992.

⁸³ Okçuoğlu v. Turkey, 1999.

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Tolstoy Miloslavsky

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⁸⁴ Lingens v. Austria, 1986; Barthold v. the Federal Republic of Germany, 1985.

⁸⁵ Open Door and Dublin Well Woman v. Ireland, 1992.

⁸⁶ Tolstoy Miloslavsky v. the United Kingdom, 1995.

Barthold

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⁸⁷ Müller v. Switzerland, 1986.

⁸⁸ Otto-Preminger Institut v. Austria, 1994.

⁸⁹ Handyside v. the United Kingdom, 1976.

⁹⁰ Barthold v. Germany, 1985.

Casado Coca

Markt Intern

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⁹¹ Casado Coca v. Spain, 1994.

⁹² Markt Intern Verlag GmbH and Klaus Beermann v. the Federal Republic of Germany, 1989.

⁹³ Judge Pettiti, dissenting opinion.

Goodwin

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Sunday Times

⁹⁴ *Goodwin v. the United Kingdom*, 1996.

⁹⁵ *Sunday Times v. the United Kingdom*, 1979.

⁹⁶ A. Rzeplinski, "Restrictions on the expression of opinions or disclosure of information on domestic or foreign policy of the state", Budapest 1997, *CoE Monitor* (97) 3.

Sunday Times

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Rotaru

Petra

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¹⁰⁰ Sunday Times v. the United Kingdom, 1979.

¹⁰¹ Rotaru v. Romania, 2000.

¹⁰² Petra v. Romania, 1998.

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Gaweda v. Poland

The Social and Political

: "Monthly: A European Moral Tribune
"Germany: a thousand-year-old Enemy of Poland

Kety

¹⁰³ Gaweda v. Poland, 2002.

" *Malone* "

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¹⁰⁴ *Malone v. the United Kingdom*, 1984.

¹⁰⁵ *Leander v. Sweden*, 1987.

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Observer and

Guardian v. United Kingdom

¹⁰⁶ *Observer and Guardian v. the United Kingdom*, 1995.

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Observer and Guardian

Spycatcher "

.Peter Wright

¹⁰⁷ Lings v. Austria, 1986; Janowski v. Poland, 1999; Tammer v. Estonia, 2001, etc.

¹⁰⁸ Idem: Sunday Times v. the United Kingdom (No. 2), 1991.

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Pettiti

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Vereniging weekblad Bluf

¹⁰⁹ Vereniging Weekblad Bluf v. the Netherlands, 1995.

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Sürek and Özdemir

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¹¹⁰ Sürek and Özdemir v. Turkey, 1999.

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Özgür Gündem

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¹¹¹ Özgür Gündem v. Turkey, 2000.

Sürek 3 ()

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Kühnen

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¹¹² Sürek v. Turkey (No. 3), 1999.

¹¹³ Kühnen v. the Federal Republic of Germany; report 1998.

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D. I. v. Germany
Auschwitz

Ochensberger

Honsik

Hadjianastassiou

¹¹⁵ D.I. v. Germany, 1996.

¹¹⁶ Honsik v. Austria, 1995.

¹¹⁷ Ochensberger v. Austria, 1994.

¹¹⁸ Hadjianastassiou v. Greece, 1992.

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Incal

¹¹⁹ *Incal v. Turkey*, 1998.

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Saszmann

¹²⁰ Saszmann v. Austria, 1997.

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Vereinigung (

Demokratischer Soldaten Österreichs und Gubi

Castells

¹²¹ Vereinigung Demokratischer Soldaten Österreichs und Gubi v. Austria, 1994.

¹²² Castells v. Spain, 1992.

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Müller and Others

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Handyside

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¹²³ Müller and Others v. Switzerland, 1988.

¹²⁴ Handyside v. the United Kingdom, 1976.

Open Door and Dublin Well

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Woman

¹²⁵ *Open Door and Dublin Well Woman v. Ireland*, 1992.

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Lingens

¹²⁶ Lingens v. Austria, 1986.

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Dalban

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Schwabe

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Oberschlick ()

Lopes Gomes

¹²⁷ Oberschlick v. Austria, 1991; Schwabe v. Austria, 1992; Dalban v. Romania, 1999, etc.

¹²⁸ Oberschlick v. Austria (No. 2), 1997.

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Dichand

Dalban

Oberschlick

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Tammer

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¹²⁹ Lopes Gomes da Silva v. Portugal, 2000.

¹³⁰ For more on the "language" see above, page 17.

¹³¹ Tammer v. Estonia, 2001.

¹³² Sunday Times (No. 2) v. the United Kingdom, 1991.

Thorgeirson

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¹³³ Thorgeir Thorgeirson v. Iceland, 1992.

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Thoma

Otto-Preminger Insitute

Council in Heaven

.Warner Schroeter

¹³⁴ Thoma v. Luxembourg, 2001.

¹³⁵ Otto-Preminger Institut v. Austria, 1994.

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Tyrol

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Jersild

¹³⁶ Jersild v. Denmark, 1994.

Sunday Times

thalidomide " "

¹³⁷ *Sunday Times v. the United Kingdom*, 1979.

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¹³⁸ De Haes and Gijssels v. Belgium, 1997.

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Goodwin

The Engineer
Tetra LTD Company

¹³⁹ Goodwin v. the United Kingdom, 1996.

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