

FREEDOM OF EXPRESSION

MODULE 1 Introduction

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HELP
Human Rights Education for
Legal Professionals

Funded
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FOR THE WESTERN BALKANS AND TURKEY 2019-2022**

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FREEDOM OF EXPRESSION

The Working Group for the course development also included **Boglarka Benko**, senior lawyer at the Registry of the European Court of Human Rights, as well as representatives of the Council of Europe Media and Internet Governance Division and the HELP Secretariat.

PETER NOORLANDER

Peter Noorlander is a consultant on human rights and media law and policy. Peter has more than 20 years' experience in this area, advising NGOs, media companies and intergovernmental organisations as well as litigating freedom of expression cases before courts including the European Court of Human Rights.

His expertise is internationally recognised; in 2015, Columbia University awarded its inaugural Award for Excellence in Legal Services to the Media Legal Defence Initiative, which Peter co-founded and led.



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The course is divided into 4 modules of 2/3 hours each for a total of 9 hours, structured as follows:

General aspects of freedom of expression



Specific themes related to the enjoyment of the right to freedom of expression



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Article 10 (1) ECHR



- 1. Freedom of expression is the cornerstone of any democratic society as it allows for citizens participation to the public debate**
- 2. Media freedom: right to impart and receive information**
- 3. It disclose violations and allows enjoyment of other human rights**

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Article 10 (2) ECHR

Restrictions to FoE: State's negative obligations

If there is an interference with the right to FoE:

PART

1

The restriction has must have been prescribed by law;

PART

2

The restriction must have been imposed
in pursuit of a **legitimate aim**; *and*

PART

3

The restriction must be demonstrated to have been
'**necessary in a democratic society**'.



State's positive obligations



- 1. Create a favourable environment for FoE**
- 2. When there are threats or use of violence:**
 - **Effective criminal-law provisions**
 - **Preventive measures to protect journalists**
 - **Investigate**
- 3. Broadcast regulation (media pluralism)**
- 4. Employment relationships (between individuals)**

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Abuse of FoE

1. Article 17 ECHR
2. Article 10 (2)
3. See the HELP course on Hate Speech

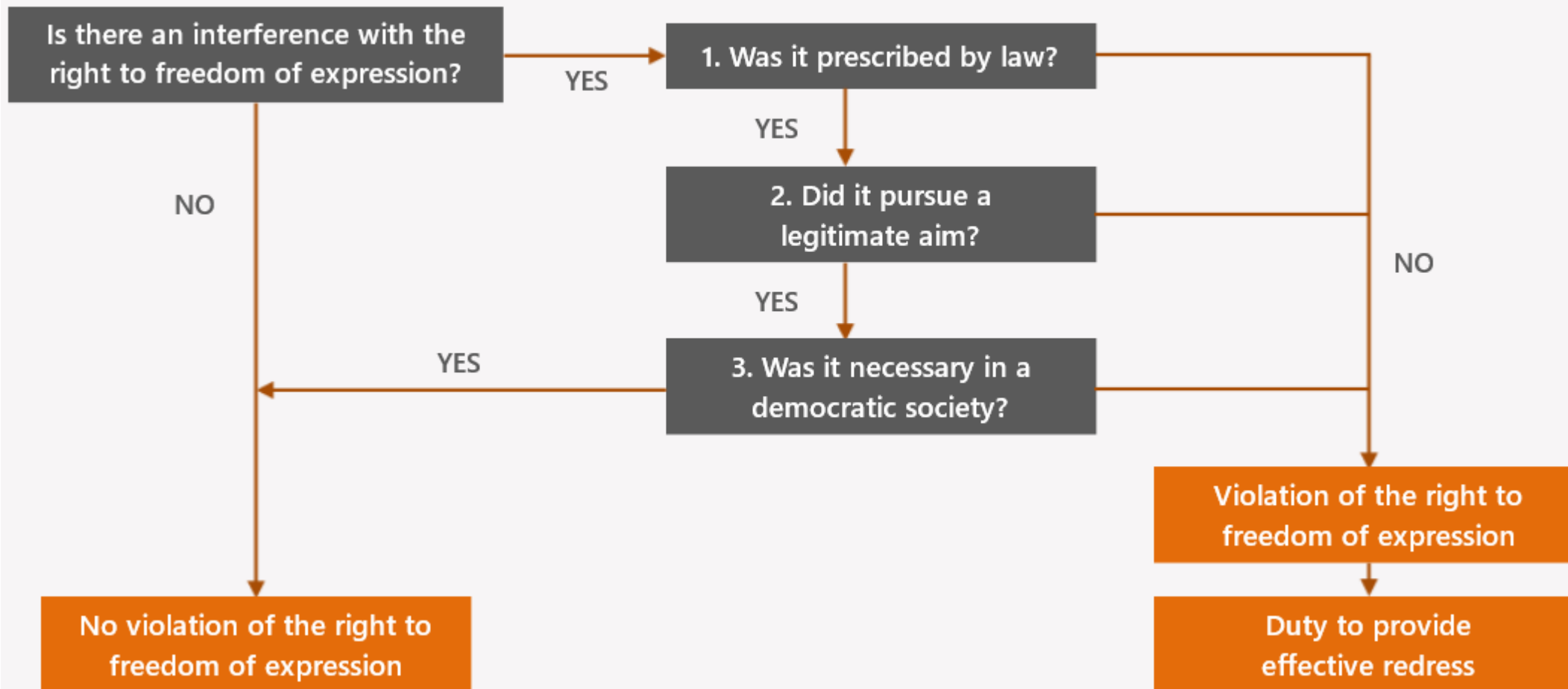
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Redress: effective remedy

Flowchart on the assessment of restrictions on the right to freedom of expression



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Types of protected speech

Political speech

Discussion on matters
of public importance

Artistic expression

Information of a commercial nature

Entertainment

1. ***Political expression*** attracts the highest level of protection
2. ***Artistic expression*** has an inherent societal value. It can also be political.
3. ***Commercial speech***: higher margin of appreciation

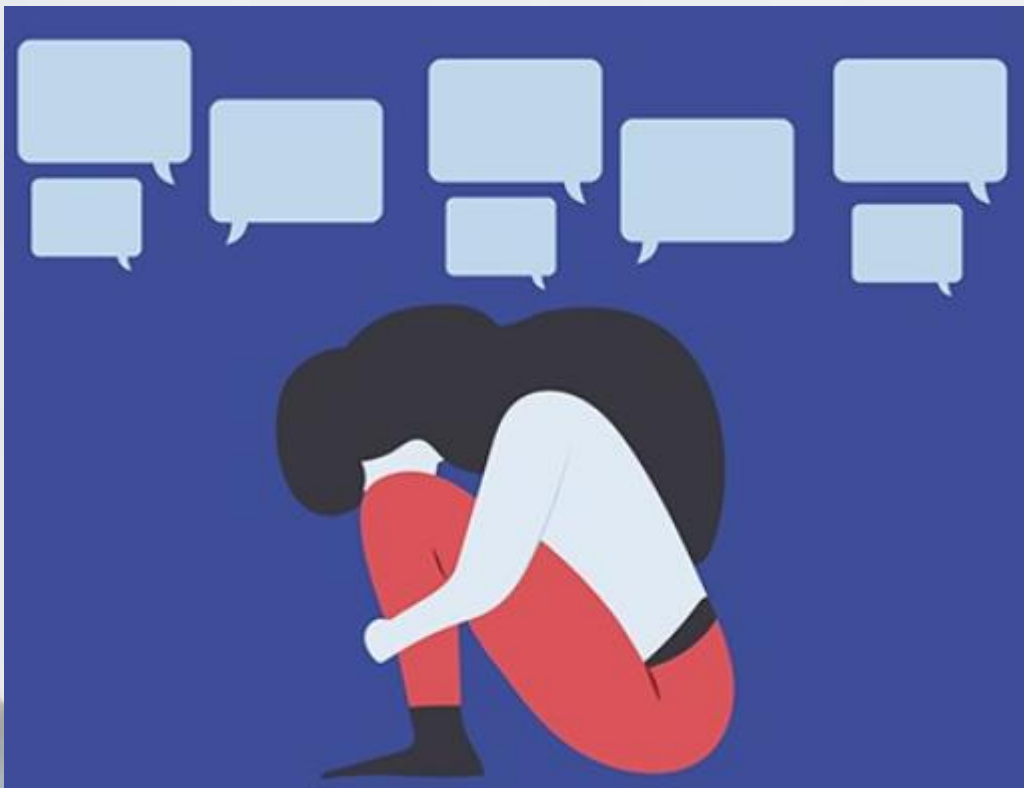
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- **Balancing competing interests**
- **Article 10 v. Article 8**
- **Criteria:**
 1. Contribution to a debate of general interest
 2. How well known is the person concerned and what is the subject of the report
 3. Prior conduct of the person concerned
 4. Method of obtaining the information and its veracity
 5. Content form and consequences of the publications
 6. Severity of the sanction imposed

Defamation

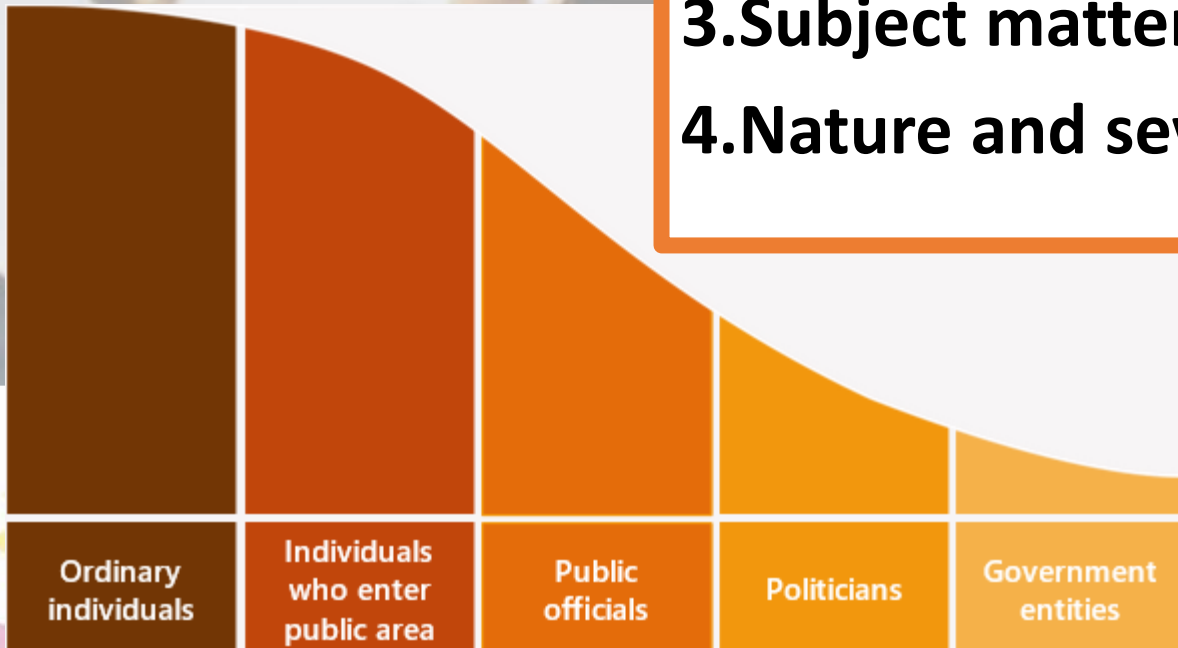


1. Fair balance between Article 10 and 8
2. The attacks on reputation needs to attain a certain level of seriousness
3. FoE is applicable to ideas and information that offend shock or disturb

Defamation

Criteria to assess whether the interference was justified:

- 1. The position of the person making the statement**
- 2. The position of the person whose reputation is affected**
- 3. Subject matter of the publication**
- 4. Nature and severity of penalty**



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MODULE 3

Media regulation; FoE online; FoE and
elections; protection of sources;
information received in confidence

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MODULE 4

Access to information, FoE and protest,
FoE and administration of justice, FoE in
the workplace, FoE and religion

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Feedback

Test success!

Congratulations, you finished the knowledge test.

Click "Continue" to advance.

YOUR SCORE

100 %

- **After the launch on Monday 29 June: more than 100 users**
- **1 out of 10 left a voluntary feedback**
- **All feedback are positive**
- **90% gave top rate to this course**

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What's next?



- **Pandemic and infodemic**
- **Implementation through cooperation activities and beyond**
- **Translation and adaptation in several languages**
- **Hand in hand with the course on Protection and Safety of Journalists**

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Congratulations!

You completed Module 4 - the last Module of the HELP course on Freedom of Expression.

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