



# Addressing hate speech in the media: the role of regulatory authorities and the judiciary

## INTERNATIONAL CONFERENCE

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## Freedom and Responsibility

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COUNCIL OF EUROPE

# With more freedom comes more responsibility

Conference

Addressing hate speech in the media: the role of regulatory  
authorities and the judiciary

Zagreb: 6 November 2018



# FREEDOM OF EXPRESSION AND ITS LIMITS

- Freedom of expression can be defined as a right of receiving and communicating information freely, without the authorities' involvement.
- Its violation, regardless of the reason, is in the detriment of the whole society, not only to those directly concerned..
- The arbitrary limitation of freedom of speech is dangerous and never necessary.
- The freedom of expression **cannot be treated as an unlimited one, but rather as a freedom placed within a legal framework**



# THE PROPORTIONALITY TEST

- The right to opinion, is not above other rights, equally legitimate, such as the right to **dignity, reputation and honour**, the right to **private life**, the right to **reputation** or the right to **public safety**.
- The rights guaranteed by the Convention shouldn't be used to restrict or annihilate other person's freedoms.
- The freedom of expression operates exactly so far as it does not cause harm to other people to the society as a whole.





*“I am the president of the citizens,  
not of sexual minorities”*

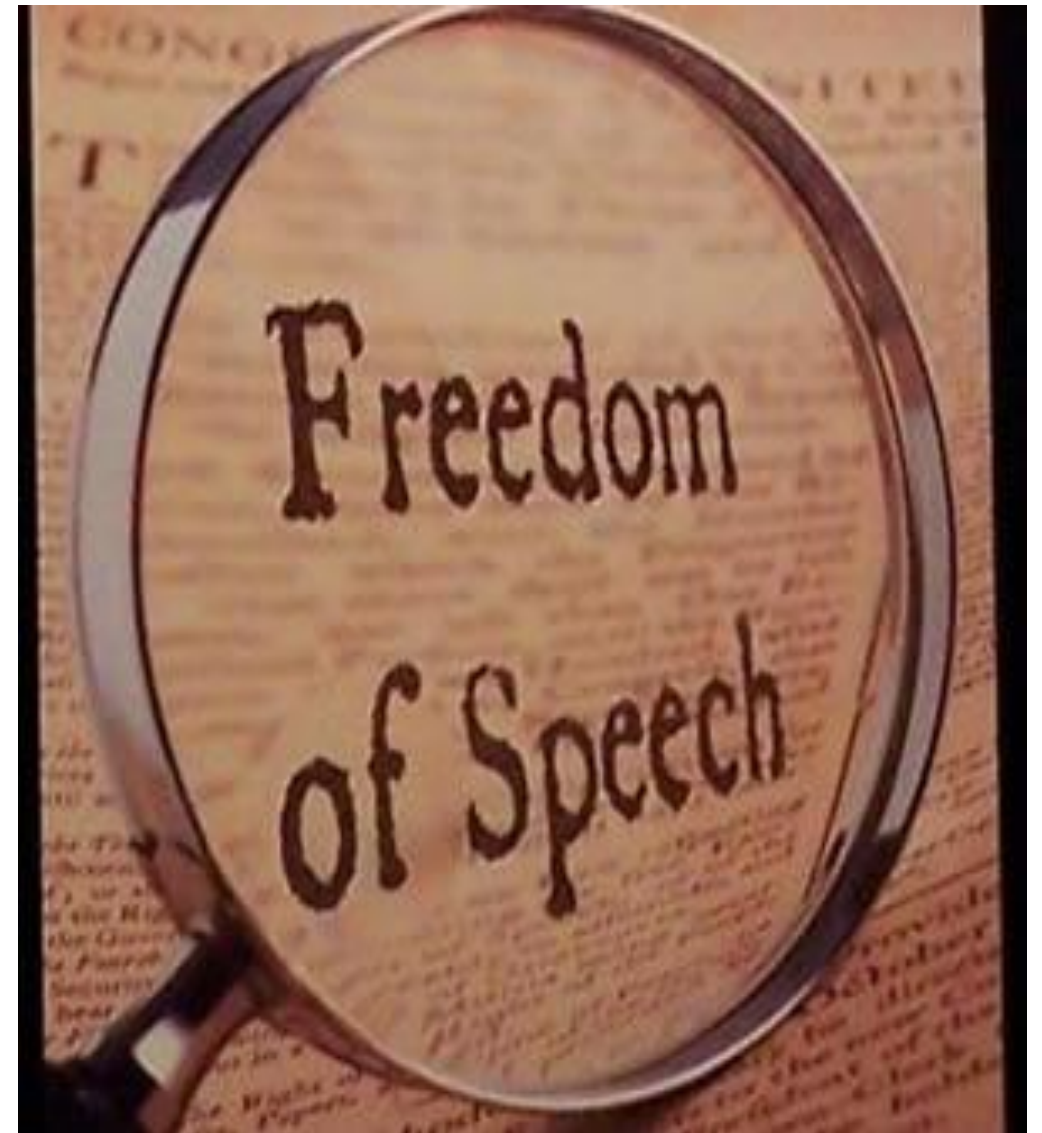
*– Igor Dodon,*

The President of the Republic of Moldova



# THINKING AND SPEAKING FREELY IS NO EQUAL TO SAYING EVERYTHING, ABOUT EVERYONE

- This statement cannot fall under the freedom of expression. It is, in fact, a message which incites hatred.
- The instigation to violence, the offensive language cannot fall within the accepted limits of the freedom of speech.
- A key element of the freedoms' formula is the following: *'Thinking and speaking freely is no equal to saying everything, about everyone.'*



# THE HATE INCITING TECHNIQUES

In 2014, Russia's central television presented the famous case of the “**crucified boy in Slavyansk**”, an alleged refugee from the Ukrainian town, Slavyansk, who “*related*” about *the false “crucifixion of a 3-year-old child”*.



# HATE INCITING CAMOUFLAGED UNDER FREEDOM OF SPEECH

The case of *E. S. v Austria* from 25 October 2018

The applicant (E.S) organized two seminars entitled 'Basic Knowledge on Islam'. During these seminars she discussed the marriage of Muhammad and a six-year-old girl called Aisha, which is said to have been consummated when she was 9 years old.

*“liked to do it with children” and “... A 56-year-old and a six-year-old? ... What do we call it, if it is not pedophilia?”.*





E.S claimed that her statements were based on **a value judgment based on facts**. Additionally, the criticism towards Islam took place in an open discussion, which contributed to a public debate and did it not intend to slander the Prophet of Islam. Lastly, the applicant stated that religious groups should have tolerated even severe criticism.

The Court decided in this case that the domestic courts have correctly put in the balance the **applicant's freedom of expression *and* the right to protection of other people's religious beliefs**, in the interest of the public and in order to preserve the religious peace in the Austrian society.



# HATE INCITING CAMOUFLAGED UNDER FREEDOM OF RELIGION

During a live broadcasted TV show, the leader (A.F) of the Moldovan LGBT community was **splashed** by a priest (G.V) **with holy water**. She filed a complaint at the Equality Council, claiming that she was subjected to discrimination based on her sexual orientation and religious beliefs. At his turn, the priest claimed that his actions fell under his freedom of religion.

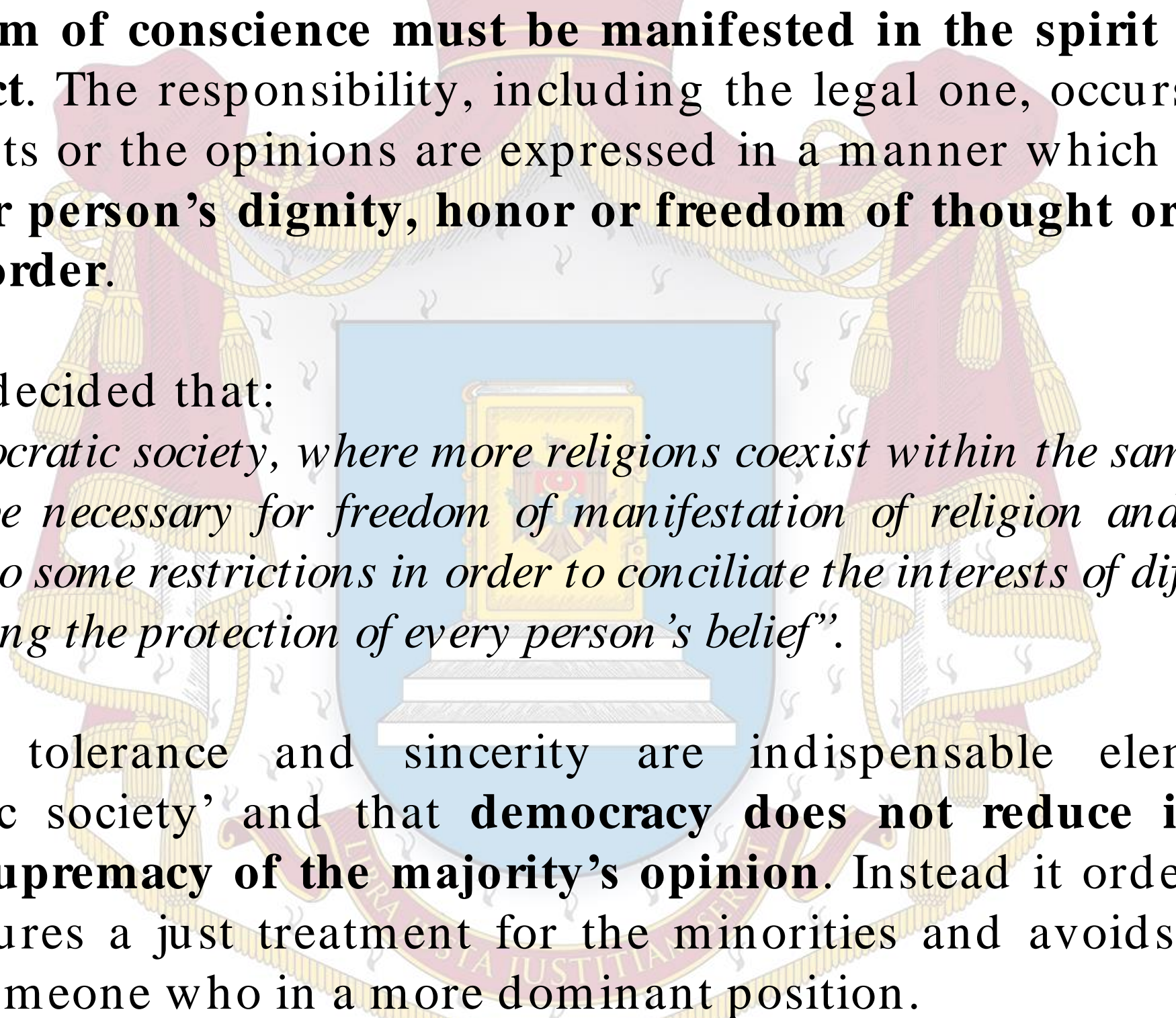




# RULING OF THE CONSTITUTIONAL COURT

*“Article 9 of the Convention does not protect any act motivated or inspired by religion or belief and it does not always guarantee the right of an individual to publicly behave in a manner prescribed by his religion or his beliefs.”* **“such actions incite to hate.”**



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- **the freedom of conscience must be manifested in the spirit of tolerance and respect.** The responsibility, including the legal one, occurs only when the thoughts or the opinions are expressed in a manner which **inflict harm on another person's dignity, honor or freedom of thought or even social and legal order.**
  - The CCM decided that:  
*“in a democratic society, where more religions coexist within the same population, it might be necessary for freedom of manifestation of religion and beliefs to be subjected to some restrictions in order to conciliate the interests of different groups and ensuring the protection of every person's belief”.*
  - pluralism, tolerance and sincerity are indispensable elements of a ‘democratic society’ and that **democracy does not reduce itself to the constant supremacy of the majority's opinion.** Instead it orders a balance which ensures a just treatment for the minorities and avoids any sort of abuse of someone who in a more dominant position.



*In these two cases, two methods of instigation to hatred and violence have been identified, camouflaged under the false excuse of exercising the freedom of expression and religion.*

*In reality, these persons were using this excuse in order to incite hate, thus raising the chances of political violence against some members of the society.*



*"Every generation  
has its own form  
of fascism..."*

# FASCISM

A WARNING

Former Secretary of State

MADELEINE  
ALBRIGHT

*New York Times* Bestselling Author



The case of the Pittsburgh synagogue shootings illustrates how, **once infiltrated in a society, hate cannot be controlled.** In a society contaminated with hatred, intolerance will manifest itself in the most horrible and unexpected manner possible.



“EVEN THE STRICTEST  
PROTECTION BY THE  
FREEDOM OF SPEECH WILL  
NOT PROTECT A PERSON  
FALSELY SHOUTING ‘FIRE!’ IN  
A CROWDED THEATRE, THUS  
CAUSING PANIC WITHIN THE  
PUBLIC, MAKING THEM TO  
TRAMPLE ON EACH OTHER  
IN A HURRY, IN ORDER TO  
REACH THE EXIT”

*—Oliver Wendell Holmes*

