

# EUROPEAN COURT OF HUMAN RIGHTS (ECHR)

## Topic Summary

In the European Court of Human Rights, delegates will act as counsel to parties to a dispute. These disputes will concern Article 10 of the European Convention on Human Rights, being the right to freedom of expression. Throughout the committee sessions, delegates will be required to argue several claims, focusing on distinct issues that can arise in the context of Article 10, drawing on legal and policy arguments to substantiate their claims.

Three issues have been particularly prevalent in the recent jurisprudence of the European Court of Human Rights on Article 10 of the Convention.

First, the Court has dedicated a substantial amount of time addressing the issues arising as a result of innovations in technology. With social media platforms becoming increasingly central to how individuals communicate with one another, the Court has had to engage with the problems such platforms raise. These include whether such platforms should be considered publishers or conduits (*Tamiz v United Kingdom*) and, most notably, whether social media platforms should be held accountable for content posted by users of the platform. While the Court has made significant progress in developing a consistent jurisprudence in this area (for example, in *Delfi AS v Estonia* and *Magyar Tartalomszolgáltatók Egyesülete and index.hu ZRT v Hungary*) many questions are left unanswered. It will be up to delegates to develop this jurisprudence with appropriate policy arguments.

Second, while the Court has always had to address its heavily criticised approach to ‘hate speech’, issues concerning hate speech have been particularly important in the last decade. Such issues have become particularly prominent as a result of increases in foreign immigration in member states and the increase in populist rhetoric in Europe. Delegates will have to demonstrate that the recent judgment of the European Court of Human Rights in *ES v Austria* represents a sustainable model for developing its jurisprudence surrounding the permissibility of hate speech and punishments for such speech.

Finally, the Court has had to address whether liability is appropriate for people, particularly journalists, who reproduce speech made by others, particularly in interviews. Once more, as a result of technological innovation and the use of hyperlinks, the decisions of the Court have become increasingly difficult. With its judgment in *Magyar Jeti ZRT v Hungary*, the Court has hinted at its approach to these issues. However, we are yet to see whether the guidelines outlined by the Court are sufficiently precise to serve as an appropriate basis for future decisions.