



## Court rejects application by Denmark-based TV company whose licence was removed for programmes backing PKK

In its decision in the case of [Roj TV A/S v. Denmark](#) (application no. 24683/14) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the applicant company's conviction for terrorism offences by Danish courts for promoting the Kurdistan Workers' Party (PKK) through television programmes broadcast between 2006 and 2010. The domestic courts found it established that the PKK could be considered a terrorist organisation within the meaning of the Danish Penal Code and that Roj TV A/S had supported the PKK's terror operation by broadcasting propaganda. It was fined and its licence was withdrawn.

The company invoked Article 10 of the Convention by complaining that its conviction had interfered with its freedom of expression.

However, the Court found that the television station could not benefit from the protection afforded by Article 10 as it had tried to employ that right for ends which were contrary to the values of the Convention. That had included incitement to violence and support for terrorist activity, which had been in violation of Article 17 (prohibition of abuse of rights). Thus the complaint by Roj TV A/S did not attract the protection of the right to freedom of expression.

### Principal facts

The applicant company, Roj TV A/S, is a Danish company and television channel which was granted a licence to broadcast by the Danish Radio and Television Board in 2003. It broadcast programmes by satellite, mainly in Kurdish, throughout Europe and the Middle East from 2004.

In September 2010, Roj TV and its parent company were charged with breaching anti-terrorism provisions of the Danish Penal Code for promoting the PKK in programmes broadcast from June 2006 to September 2010. The Copenhagen City Court noted that the PKK was on the list of terrorist organisations in the European Union, Canada, the United States, Australia and the United Kingdom, and that it only gave the views of the PKK. It convicted the broadcaster in January 2012 of offences for the period from February 2008 to September 2010 and fined it 2.6 million Danish crowns.

The High Court of Eastern Denmark upheld the conviction, extended the period concerned to between June 2006 and September 2010 and increased the fine to 5 million crowns. It also deprived Roj TV of its licence to broadcast. It was given leave to appeal to the Supreme Court over the prohibition to broadcast but in February 2014 a majority of the Supreme Court upheld the ban.

In the meantime, Roj TV had declared itself bankrupt in March 2013.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 24 March 2014.

Relying on Article 10 of the Convention, Roj TV A/S complained that its conviction by the Danish courts and the sentence imposed had interfered with its freedom of expression.

The decision was given by a Chamber of seven judges, composed as follows:

Robert **Spano** (Iceland), *President*,  
Paul **Lemmens** (Belgium),

Ledi **Bianku** (Albania),  
Işıl **Karakaş** (Turkey),  
Nebojša **Vučinić** (Montenegro),  
Valeriu **Griţco** (the Republic of Moldova),  
St phanie **Mourou-Vikstr m** (Monaco),

and also Stanley **Naismith**, *Section Registrar*.

## Decision of the Court

### Article 10 and Article 17

The Court reiterated that, as far as the application of domestic law was concerned, its task under Article 10 was only to satisfy itself that the domestic courts had based their decisions on an acceptable assessment of the relevant facts. Taking into account the careful examination of evidence and the balancing exercise carried out by the Danish courts, the Court was satisfied that their findings had been based on an adequate assessment of the facts.

Regarding the specific question of whether Article 10 had been violated, the Court noted that it had found no breach of the right to freedom of expression for convicting someone who had expressed his support for the PKK in the case of *Zana v. Turkey*.

The Court proceeded to examine whether Article 17 was applicable in the present case.

It pointed out that this provision was only applicable on an exceptional basis and in extreme cases. However, Article 17 meant that any statement, whether verbal or non-verbal, which was directed against the Convention's underlying values, for example by stirring up hatred or violence, was not protected by Article 10. The Court referred to recent case-law, pointing out that in the decision *Belkacem v. Belgium* it had found that "hate speech" - by defending Sharia law while calling for violence to establish it - was incompatible with the values underlying the Convention.

The Court noted that Roj TV had been financed to a significant extent by the PKK in the years 2006 to 2010. Furthermore, the programmes in question had included incitement to violence and support for terrorist activity and had been disseminated to a wide audience through television broadcasting. Its activities therefore fell within the scope of Article 17 and could not attract the protection afforded by Article 10.

The Court observed that Roj TV had attempted to deflect Article 10 from its real purpose by employing that right for ends which were contrary to the values of the Convention. The Court therefore declared the application inadmissible as being incompatible *ratione materiae* with the provisions of the Convention.

*The decision is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.