

The Elements of Freedom of Expression in the Light of the European Convention on Human Rights

Bora Erdem, Ph.D.

Abstract

Freedom of expression is composed of certain connective elements that are inseparable from each other. If any one of the fundamental elements that by itself has no value and meaning is missing or if it is materially limited, it may negatively impact the whole of freedom of expression. Furthermore, freedom of expression is the foundation of other freedoms. Freedom of expression consists of three components. These components cannot be thought of separately from each other. The initial steps of the first component require the freedom to examine, research, learn and obtain information for an individual to establish an opinion. The second component of freedom of expression is the freedom of opinion, which is the pure thought step where choices with respect to formed, obtained but not yet stated thoughts, opinions and beliefs are established. The basis of this notion relies on an individual being able to be forming an opinion without an enforcement to state it. The third and the final component is the declaration and dissemination of thought and opinion via all means of expression to the world. If an individual's ability to declare and defend his/her ideas is infringed, it is not possible to talk about the existence of freedom of expression. Consequently, all three of these steps are crucial to maintain the foundation of freedom of expression.

Keywords: Freedom of expression, human rights, democracy, freedom of opinion.

Introduction

a) Freedom of Obtaining News and Information

The freedom of obtainment of information and freedom of information is the first element and first step of freedom of expression. It concerns the stage before the formation of thought. In essence, it corresponds to the step where news, ideas and information are investigated and freely learned (Kucuk, 2003).

In the context of freedom of expression, there are certain elements that are imperative to the formation of an opinion. It is essential to the formation of an opinion for an individual to have free access to sources of information in a free environment and to be able to infer the results he/she desires. Both freedom of information and freedom of learning, which can collectively be stated as freedom of information, are

the keystone of thought. Moreover, it allows a person to fulfill his/her need to know and learn. The right to access accurate and undistorted information is the precondition of freedom of information, which requires the right to receive information from publicly available sources, without facing an obstruction. While the right to information is inherently a freedom associated with hearing, seeing and reading, freedom of expression is associated with talking, discussing and writing. These two forms of freedom complement each other. Like freedom of expression, right to information also has an individual and democratic aspect (Yurtsever and others v. Turkey, 2015).

Taken into consideration the humankind's fundamental need of self-development, the acquirement of a personal mine of information from the synthesis of a variety of sources is congruent with the individual aspect of the aforementioned forms of freedom. As to the democracy aspect, it is understood that a State without the public opinion that has access to free and accurate information cannot qualify as a true democratic state. In other words, a proper public opinion can only be established with the availability of information access to the public. Enlightenment of the public opinion with accurate and non-misleading information, is crucial to the operation of democracy in the direction of public interest. In liberal democracy, the essential condition of the concept of freedom of thought is the existence of citizen's right of access, especially to the information produced by the State's institutions. By developing the opportunities to obtain information and produce critical thought, freedom of information provides the necessary raw material for the formation of thought and opinion. Hence, it forms the most important preliminary element of freedom of expression. The relationship between freedom of information and freedom of expression is an absolute relationship. The sine qua none of freedom of expression is the freedom of information (Kaboglu, 1997).

There is wide global recognition regarding freedom of expression. The European Convention on Human Rights shows the importance it gives to freedom of information and freedom of learning in Article 10, by stating that, freedom of expression covers giving or receiving news or ideas without the intervention of the official authorities. In addition to this, it shows that freedom of information does not solely subsist within the borders of any one country; it is an international phenomenon. In the case of *Association Ekin v. France* (Ekin v. France, 2001), the European Court of Human Rights (ECHR) has characterized the rights provided in Article 10 as the rights without borders. In the example case, there was a code that regulates foreign publishing. This code contradicts with ECHR Article 10/1. The Court has publicly stated that the situation in 1939 permitted strict audits on foreign publishers under the conditions of that period. However, as of today, keeping such a discriminating law in force is very difficult to defend (Finkelnburg, 1998).

Freedom of information does not only include obtaining information about the others but it also includes the person's access to information about himself/herself as well.

In the *Leander / Switzerland* (*Leander v. Switzerland*, 1987) example, the government of Switzerland did not approve the appointment of the applicant to civil service with the justification that he/she was not cleared for the job regarding security. When the individual that was denied the job moved on to figure out why the government refused any access to the file that contained the information. The court ruled in favor of the Swiss government stating that applying for civil service is not covered in the ECHR; thus, the individual does not possess the right to access personal information in this case. That is to say, the Court arrived at the conclusion that in this event the attitude of the State was correct and it was confirmed that the accessibility to general sources of information is at a reasonable level (Kaboglu).

The right to information does not always encompass access to sources that contains person specific information. In other words, information about personal issues are not within the general accessibility area. There is a certain classification of public information. Firstly, the event should hold social and public importance like the death of Princess Diana, a bus shooting, corruption in a district municipality, or a parliamentary election. Secondly, if the event has low social importance but attract the attention of the public. For example, the star of a popular soap opera getting pregnant, a football game, the sudden enrichment of a politician, a famous writer having dinner with his lover at a restaurant, the wife of a governor of a province traveling in subway, or a famous vocal artist catching the common cold (Cohen-Almagor, 2001). The disclosure of the events in the first classification is important from the perspective of formation of public opinion. However, reporting and disclosing the events within the second classification may be disturbing for those who are subject of the news. The contention here is the requirement to bear the burden of the choice of a life in front of the eyes of the public and as conventional saying goes, becoming public. Because of that politicians, those in the show business and football players should live with the awareness that, at any moment, they may become news object of the press, and the public has the right to know about them.

The Court has repeatedly emphasized the role of the press in the formation of the public opinion by delivering information about the lives of public figures. The *Castells* case was significant in that aspect. The role of the press was described as follows:

In this respect, the pre-eminent role of the press in a State governed by the rule of law must not be forgotten. Although it must not overstep various bounds set, inter alia, for the prevention of disorder and the protection of the reputation of others, it is nevertheless incumbent on it to impart information and ideas on political questions and on other matters of public interest ...

Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate

which is at the very core of the concept of a democratic society (Castells v. Spain, 1992).

Another significant judgment concerning this issue emerged in the *Sunday Times v. the United Kingdom* case, where the Court decided that even an issue related to an ongoing judicial investigation needs to be able discussed in public through the reporting of the press. Since it is a matter of public concern, freedom of expression, in this case, protects the press from the intervention of the State. Also in the *Lingens v. Austria* case (*Lingens v. Austria*, 1986) the vital role of the press in the political area and democracy is highlighted by the Court, which defined it as the foundation stone of democracy as it enables political discussion by allowing the public form an opinion about their elected officials. This is a right of the people, and equally the duty of the press to impart information and ideas on political discussions. An example to this provision is the *Sürek and Özdemir v. Turkey* case (*Sürek and Özdemir v. Turkey*, 1999). In this decision, it is seen that the existence of legitimate aim was sought by questioning if the intervention exceeded the restrictions based on the threat of violence, with the purpose of national security or protection of the integrity of the State, maintenance of public order or prevention of crime. In addition to the obligation of the press to impart ideas and information related to public interest, the public also has the right to receive these. As a result, freedom of press is established as an essential element of freedom of information. From the perspective of the public, this freedom provides a crucial tool for understanding the attitude of the political leaders and establishment of an opinion. Likewise, without providing the opportunity to be informed, to know and to disseminate the information, the notion of freedom of expression would be violated.

b) Freedom of Opinion

Freedom of opinion forms the second of the element of freedom of expression. It is possible to say that freedom of opinion is protected from the limitations regulated under Article 10/2 of the Convention. It is also the prerequisite of the freedoms regulated in the related provision. Freedom of opinion can be claimed to have an absolute qualification, based on the statement of the Committee of Ministers of the Council of Europe (CoE) that it is not possible to restrict freedom of opinion and thought in a democratic society (Trager and Dickerson, 1999).

What should be understood from freedom of opinion is that, among the information obtained in philosophical, theological, social, political and economic areas in an environment that guarantees freedom of the right to access information and learning, an individual is able to choose the views that he or she believes to be true and not be condemned for that view (Gellhorn, 1960).

Within the framework of freedom of opinion, it is also possible to talk about the freedom of belief as well. Likewise, the thoughts, opinions and behavior of the people concerning religion are guaranteed within the scope of the freedom of belief.

Moreover, liberty of conscience guarantees all sorts of political and philosophical opinions as well; it also covers non-religious beliefs an individual might hold. That is to say an individual has the right to conform or not conform to any religious or nonreligious belief.

There are several decisions of the European Court of Human Rights that exemplifies this situation. For example, in the *Kostakos v. Greece* case, the Court decided that the Convention not only protects the personality and understanding of life of the believers but also protects the world view of non-believers, enemies of religion and sophists (Okumus, 2007).

In addition to right to receive news and information, it can be said that freedom of opinion is a very important element of freedom of expression. It is the last step of the thinking process that takes place at the inner world of the individual. As an internal process, freedom of opinion is related to the mental and intellectual aspects of persons; additionally, unless an individual declares their opinion, having one does not have a consequence to the outer world. Yet it is possible that opinions harm someone when declared. Because of that, whether it should be a subject of legal arrangements is a matter of discussion. Legal guarantee of these freedoms of which the limitation in the legal plan is nearly impossible, is very important. In the human rights documents also, freedom of opinion is regulated without being subject to any limitation and only by provision of guarantees. For this reason, it is possible to say that freedom of opinion is an absolute freedom (Tanor, 1969).

Freedom of expression and freedom of opinion are considered to be parts of a whole in nearly all documents that regulate freedom of expression. As in the Universal Declaration of Human Rights Article 19 and the European Convention on Human Rights Article 10, freedom of opinion and expression are regulated within the same provision. Moreover, in the American Declaration of the Rights and Duties of Men Article 13, freedom of opinion was regulated as an inseparable part of freedom of expression. Yet there are also other documents that make regulations under different Articles. Foremost of such documents is the United Nations Convention on Civil and Political Rights. According to this contract, freedom of opinion is an absolute right whereas freedom of expression is subject to certain limitations. In essence, from that respect, there is no difference between commonly regulatory documents and regulatory documents that fall under different Articles. Because it is known that freedom of expression can be limited in documents where it is regulated as a whole. Hence, in the European Convention on Human Rights Article 10/2, a regulation of this type is clearly stated (Tezic, 1990). In general sense, in these regulations it is stated that the people should not be criticized for their thoughts and opinion and they should not be forced to disclose them. Similarly, the limitation of an area like freedom of opinion, which concerns the inner world of an individual with legal norms, cannot be associated with democratic principles. Likewise, a regulation that might be found offensive to some people would result in the emergence of certain practices to end it.

Interventions of this type would in no way be associated with the principles of liberal democracy, as it can be considered as an action peculiar to totalitarian regimes. Because of that the area of freedom of opinion forms the natural area that is left beyond the absolute limitation area of the law and the essence of human rights. Because, unless transferred to the outer world, freedom of opinion is personal and it belongs to the inner world of the individual. Opinions, only in the event that they are transferred to the public arena, can represent the intellectual choice of the others (Tanor).

Freedom of opinion, which is among the most essential facilities of a democratic society, represents the choice to adopt a thought or an opinion without the fear of persecution. It is required to state that freedom of opinion contains the freedom of silence as well. Moreover, not being forced to state thoughts and beliefs or disbeliefs means that the ability to choose not to talk manifests itself only in the existence of enforcement. Right to silence may appear in three different ways: 1) the right of a person not to express the things that he/she does not believe, 2) the right of a person not to express the things he/she believes, and 3) the right of a person not to express the things that he/she knows. The freedom that contains the person's right to not disclose what he/she believes also contains his right to not express what he/she believes (Wallace v. Jaffree, 1985). It is seen that, problems associated with right to silence are presented to the Turkish Constitutional Court as well.

The learning religious beliefs is also covered in the framework of the right to silence. In addition to learning religion and beliefs, learning political ideas and beliefs are also among the most commonly observed problems. Such that, generally, efforts of this type are observed in the process of entrance to the public service, as manifested in the two cases submitted to the European Court of Human Rights. Both of these cases were opened against Germany. In these cases, *Berufsverbot* Doctrine was evaluated. This doctrine enforces all State officials of Federal Republic of Germany to swear an allegiance to the Constitution and its values. Ms. Glasenapp has stated some opinion (Glasenapp v. Germany, 1986) that provides sympathy to the far-left party (German Communist Party), and Mr. Kosiek has stated some opinion (Kosiek v. Germany, 1986) that provides sympathy to the far-right party (Germany National Democratic Party). In both of these events, the government has refused to provide permanent public official status to the applicants, who were appointed as teachers on limited contracts. In these cases, the Court presented a similar opinion that requesting the State officials support of a free democratic constitutional system is not violate the ECHR. The Court concluded the cases stating that these cases were about the right of applicant to enter public service, as there is no intervention to the freedom of expression. In yet another decision, the Court attitude of the court differed from its attitude in these two cases. In the mentioned case, as a justification of termination of the teaching post, membership of a teacher called Vogt to German Communist Party was stated. There is a difference with this case and the two example cases provided above. The difference is the status of the complainant. The public service of the complainant

differed from the other two cases, as in this example the service was temporary. However, Ms. Vogt had held an official position, which refers to a permanent position. European Court of Human Rights has stressed the fact that according to laws of Germany, constitutionality is absolute and found the burden on each of the citizens equally without considering the work or level of this theme, and lack of discrimination between public service and private life to be odd. The subject of the aforementioned case was the violation of freedom of expression, and as the complainant was one of the permanent State officials, it was not associated with the entrance to civil service (Vogt v. Germany, 1995).

Another issue that needs to be highlighted in this judgment of the ECtHR is the fact that none of the member States of the CoE had such an oath of allegiance as a Constitutional obligation, except for Germany. A remarkable point that was considered in the decision was that the obligation in question was not applied in the same way even in different parts of Germany. In this case, the Court has stressed three main issues and elaborated on them. Firstly, the court found the penalties to be unnecessarily excessive. Suspension from his job meant to cut the financial source of the applicant altogether. Secondly, the job of the applicant contained no security risk. And finally, in the related period, German Communist Party was not banned by Federal Republic of Germany Constitutional Court. As a result, the Court declared that the justifications provided by the national authorities for the suspension of the applicant were not sufficient. In the same vein, the Vogt decision reflected the views of the Court that the duty of allegiance to the Constitution should not be excessively burdensome that without considering the task and level of a citizen should not ascribe everyone equally; In the event of ascribing such a duty, the provision of a distinction between the public space and private space would be necessary. One other important contribution of this case was the libertarian interpretation introduced with respect to the right of teachers and State officers to participate in political actions. This interpretation also clearly reveals the commitment of the European Court of Human Rights to the principle of freedom of expression.

As stated before, right to silence protects both the people's rights of not saying what they do not believe and avoid saying what they know. For example, it gives the person the right to avoid testimony against himself/herself or relatives. There are constitutional arrangements that protect individuals' right to silence. For example, the United States Constitution protects the individual self-incrimination., The Fifth Amendment of the US constitution states, "No person...shall be compelled in any criminal case to be a witness against himself" (Justia.org, 2018) The aforementioned right is accepted as one of the big transformation points in the person's struggle for civilization. At this point, the journalist's freedom of not disclosing their sources can also be considered within the context of a person's right to not disclose something he/she knows.

In summary, freedom of opinion which is described as an inseparable part of and even the core of freedom of expression provides protection from both situations that endanger the statement of opinions and factors that disturb the individuals due to the differences in their opinions or hinder the adoption of different ideas.

c) Freedom to Declare Ideas and Opinions

The obtained belief and opinion eventually reveals the freedom of declaration of ideas and opinions, which is the most operative and important element of freedom of expression. The freedom of declaration of ideas are the expression of thoughts. The right to receive news and information and the freedom of forming and holding opinions can only make sense with the freedom of declaration of ideas and opinions. Otherwise, it would be impossible to talk about the existence of freedom of expression as a whole (Reisoglu, 2001). In the general sense, the notion of declaration of ideas constitutes the reflection of an individual from the information he/she has received from the outer world. There are many mediums to deliver ideas and opinions. The speech or writings of an individual or a collective organization is an example of such mediums. Collective upheavals at meetings, demonstrations, unfurling banners, posters, associations, organized attitudes, actions, movements conducted via the political parties, can be all counted as examples of expression. In that respect, it is possible to talk about different formats of view of freedom of expression. Because of that, when freedom of expression should not only be understood as the existence of abstract thoughts, but also as the dissemination and explanation of these thoughts in an abstract manner (Bayraktar, 1977).

Moreover, the indoctrination of ideas to others in an active, systematic and persuasive manner, such as suggestion and recommendation, in other words propaganda, also lies within the concept of freedom of expression. Any leniency present in an individual as a result of such acts are within the norm. Inherently, the ability to make propaganda is considered within the context of freedom of expression. Prevention of this can be considered fair only when methods like violence and use of force are observed (Okumus). Otherwise, even though propaganda has a certain mission to rally and mobilize through exciting a certain audience in a strong manner supporters, still, all purposes and methods used in the process would be considered as freedom of expression, unless use of violence and hate speech is provoked and promoted (Cohen-Almagor). Any approach to suppress it would mean a clear prohibition of the expression of thought (Selcuk, 1998).

An individual has possessed the ability to criticize, act on their ideas, and transfer those ideas to other people under the freedom of expression notion. While this transfer is made, aggressive expressions might be used as well (Shipler, 2015). In several evaluations, the European Court of Human Rights stated that a politician or a critic might use harsh, offensive, and satirical language in evaluating the events from his/her perspective because it is considered to be within the concept of freedom of expression. The Court has concluded that, the Leftist Party militant Herve Eon's

conviction for defamation via unfurling a banner stating, “Get lost you prat” which were the same words that ex French president Nicolas Sarkozy used against a farmer during his visit to city of Laval, was a violation of Eon’s freedom of expression. In the decision, it was stressed that, the expression used in this protest is a product of irony, and punishment of this style of protest would create averseness that threatens the ironic expressions used in the public discussions.

Establishment of an association with a political party, organization and becoming a member, conducting meetings, demonstrations and marching are all accepted as different appearances and varied reflections of freedom of expression. It is required that the individuals, both personally and as a group, are able to act in a way that is appropriate to their thoughts and beliefs. Regulations that prescribe the contrary would mean violation of freedom of expression.

Conclusion

In the context of human rights and freedom, together with the right to live, the freedom of expression is considered as one of the most important rights. Mainly because freedom of expression forms the essential requirement of several other rights that people enjoy. Moreover, since it is one of the requirements of a democratic society if it is violated that society would be left open to the establishment of an oppressive system. Freedom of expression is among the fundamental requirements of the development of a civilization that encompasses the democratic state of society in both personally and socially. Open discussion, exchange of ideas, freedom of research and criticism will effectively operate the process of search for the facts. Separation of right and will ensured that the individuals receive accurate information (Schauer, 1982). In that direction, according to the European Court of Human Rights, the freedom of expression is deemed as among the essential foundations of a democratic society and one of the foremost requirements for self-development of the individuals.

Freedom of thought is not as simple as it sounds as it is the composite of variety of rights. Several aspects contribute to form a unified notion of freedom of expression. Beginning from the formation of thought to the declaration of it freedom of expression is a complex notion of several controversial issues. The limitations and the clash points of freedom of speech and the law are among these issues. The topic is always evolving as court cases around the globe keep on being resolved regarding freedom of expression. To guide us through this process there are certain components and steps. The steps, or in other words, the elements of freedom of expression can be counted as freedom of information, freedom of opinion and freedom of declaration of ideas and opinion.

Bibliography

- [1] Bayraktar, Köksal. *Suç İşlemeye Tahrik Cürmü* [The Felony of Sedition to Crime]. İstanbul: İ.Ü. Yayını, p.23, 1977.

- [2] Cohen-Almagor Raphael. *Speech, Media and Ethics: The Limits of Free Expression*. New York: Palgrave Macmillan, p.129-130, 2001.
- [3] Finkelburg, Klaus. "Demokraside İfade Özgürlüğü [Freedom of Expression in Democracy]." In *Düşünce Özgürlüğü* [Freedom of Thought]. Edited by H. Ökçesiz. Translated by N. Ülner. İstanbul: AFA, p.202-203, 1998.
- [4] Gellhorn, Walter. *American Rights: The Constitution in Action*. New York: Macmillan, p.80, 1960.
- [5] Kaboglu, İbrahim, *Türkiye'de Düşünce Özgürlüğü* [Freedom of Thought in Turkey]. İstanbul: TÜGİK, p.25, 1997.
- [6] Kucuk, Adnan. *İfade Hürriyetinin Unsurları* [The Elements of Freedom of Expression]. Ankara: Liberal Düşünce Topluluğu Yayınları , p.23, 2003.
- [7] Okumus, Ali. *Avrupa İnsan Hakları Mahkemesi Kararları Işığında Türkiye'de İfade Hürriyeti* [Freedom of Expression in Turkey in the Light of the ECtHR Judgments]. Ankara: Adalet Yayınevi, p.48-56 2007.
- [8] Reisoglu, Safa. *Uluslararası Boyutlarıyla İnsan Hakları* [Human Rights with Their International Dimension]. İstanbul: Savas Kitap, p.66, 2001.
- [9] Reyhan, Sunay. *Avrupa Sözleşmesinde ve Türk Anayasasında İfade Hürriyetinin Muhtevası ve Sınırları* [Limits and Content of the Freedom of Speech in the Light of European Convention on Human Rights and Constitution of Turkish Republic]. Ankara: Liberte Yayınları, 2001.
- [10] Schauer, Frederick. *Free Speech: A Philosophical Enquiry*. Cambridge: Cambridge University Press, p.21, 1982.
- [11] Selcuk, Sami. "Düşünce Özgürlüğü [Freedom of Thought]." In *Düşünce Özgürlüğü*. Edited by Hayrettin Ökçesiz. İstanbul: AFA, p.303, 1998.
- [12] Shipler, David K. *Freedom of Speech: Mightier Than the Sword*. New York: Alfred A. Knopf, p.178, 2015.
- [13] Tanor, Bülent. *İnanç ve Din Özgürlüğü* [Freedom of Belief and Religion]. İstanbul: Yapı Kredi Yayınları, 2000.
- [14] Tanor, Bülent. *Siyasi Düşünce Hürriyeti ve 1961 Türk Anayasası* [Freedom of Political Thought and the 1961 Constitution]. Ankara: Öncü Kitabevi, p.25, 1969.
- [15] Tezic, Erdoğan. "Türkiye'de Siyasal Düşünce ve Örgütlenme Özgürlüğü [Freedom of Political Thought and Organization in Turkey]." *Anayasa Yargısı* 7, p.33, 1990.
- [16] Trager, R. and Dickerson, D. L. *Freedom of Expression in the 21st Century*. Thousand Oaks: Pine Forge Press, p.16, 1999.

Electronic Sources

- [1] "The Constitutional Right to Silence" *Justia.org*. Accessed April 02, 2018. <https://www.justia.com/criminal/procedure/miranda-rights/right-to-silence/>

- [2] U.S. Supreme Court *Wallace v. Jaffree*, 472 U.S. 38 (1985), <https://ffrf.org/outreach/item/14029-prayer-in-public-school> (27.05.2015).

The ECtHR Cases

- [1] *Association Ekin v. France*, 17.07.2001, Application No: 39288/98, <http://hudoc.echr.coe.int/eng?i=001-59603>
- [2] *Castells v. Spain*, 23.04.1992, Application No: 11798/85, parag. 42. <http://hudoc.echr.coe.int/eng?i=001-57772>
- [3] *Glaserapp v. Germany*, 28.08.1986, Application No: 9228/80, <http://hudoc.echr.coe.int/eng?i=001-57494>
- [4] *Leander v. Switzerland*, 26.03.1987, Application No: 9248/81. <http://hudoc.echr.coe.int/eng?i=001-57519>
- [5] *Lingens v. Austria*, 08.07.1986, Application No: 9815/82. <http://hudoc.echr.coe.int/eng?i=001-57523>
- [6] *Kosiek v. Germany*, 28.08.1986, Application No: 9704/82, <http://hudoc.echr.coe.int/eng?i=001-57513>
- [7] *Mesut Yurtsever and Others v. Turkey*, 20.01.2015, Applications Nos: 14946/08, 21030/08, 24309/08, 24505/08, 26964/08, 26966/08, 27088/08, 27090//08, 27092/08, 38752/08, 38778/08 and 38807/08, <http://hudoc.echr.coe.int/eng?i=001-150798>
- [8] *Sürek and Özdemir v. Turkey*, 08.07.1999, Application no: 23927/94 ve 24277/94, <http://hudoc.echr.coe.int/eng?i=001-58278>
- [9] *Vogt v. Germany*, 26.09.1995, Application No: 17851/91, <http://hudoc.echr.coe.int/eng?i=001-58012>