

# Law of Denial

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The departure point for this paper is a case of genocide denial that was recently decided at the European Court of Human Rights (ECHR). The case of *Perinçek v. Switzerland* considered whether the criminal conviction of Turkish politician Doğu Perinçek in Swiss courts for publicly denying the Armenian genocide while he was visiting Switzerland, constituted a breach of his right to freedom of expression. There were two separate rulings at the ECHR and both were in Perinçek's favour: A first judgment by the Second Chamber in December 2013 was referred to the Grand Chamber, which delivered the final and authoritative judgment in October 2015. The case was a classic example of the law allowing itself to be instrumentalised for a denialist agenda due to its misrecognition of its own function and place in a particular political context. In other words, the case should never have gone as far as it did. Interestingly, the two ECHR judgments had different lines of reasoning, and notably different conceptions regarding the relationship between law and history. If, on a general theoretical level, judgment is a necessity that has to address itself to moment of crisis, and if that moment of crisis is not one of pure presence, but rather the sedimentation of a past in the form of history and memory, the question of how judgment figures temporality becomes crucial. How does judgment configure itself into a plane of temporality? Or how does judgment address itself to the crises of history and memory? Can it do so in a way that accounts for its own denials and violence that stem from its own necessity?