DATABASE 2012-2024 ON ANTI-MUSLIM HATRED

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Italy	2012	Italy / Court of Cassation / Decision no. 19265	https://www.leggioggi.it/wp-content/uploads/2012/05/cassazione_odio_razziale.pdf	Racial or ethnic origin	Italian Court of Cassation (Corte di Cassazione)	The Court of Cassation had to assess the legitimacy of the decision of the Court of Appeals of Trieste which had condemned the complainant for false report and menaces aggravated by reasons of ethnic hatred. The accused person sent threatening letters to a public institute – whose name is omitted in the decision – containing a white powder – similar to anthrax – and several degrading and racist phrases and menaces. The complainant considered the decision of the Court of Appeals not to be in comofrmity with the law since the racist conduct did not target an individual but an institution and, consequently, could not be considered as a racist menace or conduct.	The decision of the Court of Appeal of Trieste is to be considered legitimate and the complainant's conviction is valid.	According to the Court of Cassation the complaint cannot be accepted and the decision of the Court of Appeal of Trieste is to be considered legitimate since the complainant's conduct even though not aimed at damaging a specific person but an institution can in any case be ruled by the anti-discrimination legislation since it was aimed at causing alarm and disseminating racial hatred.	This decision is relevant because the Court of Cassation contributes to the correct interpretation of the meaning and field of application of the anti-discrimination and racism legislation. More specifically, the Court stressed that to apply the aggravating factor based on the attempt to discriminate or disseminate racial, ethnic, religious and national hatred, as envisaged by art. 3 of the Law No. 205 of 25 June 1993, is not necessary that the criminal conduct is potentially able to publicly disseminate its hatred and discriminatory content- It can be applied also to those conducts which are perpetrated between private subjects and not perceived by others.	Point 3 of the decision: "per la configurazione dell'aggravante della finalità di discriminazione o di odio etnico, nazionale, razziale o religioso [...], non sia necessario che la condotta di incriminata sia destinata o, quantomeno, potenzialmente idonea a rendere percepibile all'esterno ed a suscitare il riprovevole sentimento o, comunque, il pericolo di comportamenti discriminatori o di atti emulatori, giacché ciò varrebbe ad escludere la aggravante in questione in tutti i casi in cui l'azione lesiva si svolgono in assenza di terze persone" "in order for the aggravating factor based on the attempt to discriminate or disseminate racial, ethnic, religious and national hatred [...] to be applicable, it is not necessary that the criminal conduct is destined, or at least potentially able to propagandise or raise the reprehensible feeling or, in any case, discriminatory actions or emulative behaviours, since it would exclude the application of the aggravating factor to all those cases when the damaging actions are perpetrated in the absence of third external subjects"

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