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	2013	Italy / Court of Cassation / Decision no. 33179/13	http://www.asgi.it/wp-content/uploads/public/cassaz_33179_2013.pdf	Racial or ethnic origin	Italian Court of Cassation (Corte di Cassazione)	The accused was the owner and manager of a website whose aim was to disseminate racist hate speech and violent discourse. He was charged for incitement to discrimination or violence based on racist grounds. According to him, this accusation is illegitimate because the website's server is based in the USA and because the dissemination of such content on the Internet did not have the potential of creating a political group fostering racial hatred. He also stressed that he was only the manager of the website and his conduct was limited to uploading articles. On 5 December 2012, he was convicted by the Ordinary Court of Rome.	The Ordinary Court of Rome's decision to condemn the complainant is confirmed by the Court of Cassation.	The Court of Cassation considered the decision of the Ordinary Court of Rome legitimate and confirmed the sentence against the complainant. More specifically, the Court stressed that Italian Courts are in charge of judging this case even though the website's server is based in the USA, because the criminal conduct was organised and implemented in Italy; most of the criminal actions have been perpetrated in Italy and the website's users are mostly based in Italy. Moreover, the current use of the Internet and of the social media is a further possibility of perpetration of certain criminal conducts, including hate speech and hate crimes. For this reason, the concerned legislative disposition can be applied also in those cases where racist groups and organisations whose aim is to disseminate hate speech and racial discrimination are organised and act on the Internet.	The decision is relevant because it is one of the first Italian Court's decisions ruling criminal conducts perpetrated on the Internet. The Court stressed the crucial importance of social media in current days and the additional possibilities they offer for criminal conducts, especially in case of discriminatory discourses and hate speech.	Point 4 of the decision: "... il legislatore italiano ha punito come delitto la diffusione di idee fondate sulla superiorità o sull'odio razziale, nonché l'incitamento a commettere atti di discriminazione o di provocazione alla violenza nei confronti di persone perché appartenenti a un gruppo nazionale, etnico o razziale [...]. È stato affermato che la norma incriminatrice [...] configura un delitto di pura condotta, consistente nella propaganda razzista o nella istigazione a commettere atti di discriminazione razzista, che si perfeziona indipendentemente dalla circostanza che la propaganda o la istigazione siano raccolte dai destinatari. Ed è anche delitto con dolo generico, integrato dalla mera coscienza e volontà di propagandare idee razziste o di istigare alla discriminazione razzista, giacché la norma non richiede nell'agente uno scopo eccedente rispetto all'elemento materiale del reato [...] la propaganda si qualifica come diffusione di messaggi volta a influenzare le idee e i comportamenti dei destinatari, e la stessa è tanto più efficace quanto più si affida alle nuove tecnologie di comunicazione, quali i social network e i siti web" "racist propaganda or incitement to racist discrimination actions[...] can be assessed without considering if the propaganda or the incitement are actually received by the recipients. Moreover, it has to be considered a generic criminal offence, based on the mere awareness and will of disseminating racist ideas and inciting to racist discrimination [...] the propaganda includes the dissemination of messages aimed at influencing the ideas and behaviours of the recipients, and it is even more efficacious if it is perpetrated through the new communication technologies, such as social networks and websites"

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