

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
Spain	2014	Spain / Barcelona Provincial High Court Decision, Section 10 / Rec 314/2013	https://www.iberley.es/jurisprudencia/sentencia-penal-n-353-2014-ap-barcelona-sec-10-rec-314-2013-20-03-2014-14279571	Nationality	Barcelona Provincial High Court Decision (Audiencia Provincial de Barcelona)	The Barcelona Provincial Court upheld a decision of Criminal Court No. 1 of Vilanova i la Geltrú July 13, 2013. The sentence condemned the members of the group but no the association itself: - 2 years and 6 months in prison, - 18 months with a 3 euros daily fee fine, - a subsidiary responsibility of 1 day in prison for each two unpaid fees, - no possible access and/or exercise of public position during 9 years, - payment of the 3/4 of the legal costs. One of the accused did just maintain contact with other members, but he also was condemned as an illegal/illicit association founder (article 517.1 of the CC), based on his signature on the Association Constitution Act.	It does confirm the condemnatory judgement of the Criminal Court No. 1 of Vilanova i la Geltrú July 13, 2013. The sentence condemned the members of the group but no the association itself: - 2 years and 6 months in prison, - 18 months with a 3 euros daily fee fine, - a subsidiary responsibility of 1 day in prison for each two unpaid fees, - no possible access and/or exercise of public position during 9 years, - payment of the 3/4 of the legal costs. One of the accused did just maintain contact with other members, but he also was condemned as an illegal/illicit association founder (article 517.1 of the CC), based on his signature on the Association Constitution Act.	It was irrelevant if all videos were or not done by association members, since the display of such images promoted discrimination, hate or violence regardless of the author's identity. The criteria applied for the penalty were the two years that the Association lasted and the publicity achieved, which reached a national level based on the participation on the website Forum. The punishable conduct was the illegal association understood as an effective participation on the violation of the legally protected right under the article 510 together with the articles 515 and 517 of the CC.	It distinguishes between hate speech and offensive or unpopular speech. The Art. 20 of the Spanish Constitution does not guarantee the right to express and disseminate a particular understanding of history and any perception of the world with the deliberate aim to disparage and discriminate any persons or groups on grounds of a personal condition, ethnic or social circumstances (STC 214/1991, 11 Dec.). The Positions that underscore the Nazi genocide represent a racist incitement (STC 214/1991, 11 Nov. and 13/2001, 29 Jan.). The Association which incites to discrimination, is not only illegal but also the one which simply promotes it (STS 12/04/2011).	"...és evident que la discriminació racial i provocació de l'odi previst en l'art. 510 CP no requereix imperativament l'existència d'una xarxa o associació, puix és un delictes que pot cometre qualsevol persona individual..." "... ambdues normes són aplicables en els termes que recull l'art. 77 del Codi, si bé la pena privativa de llibertat a imposar serà única..." "... It is clear that the racial discrimination and incitement to hatred in the art. 510 CC does not require necessarily of the existence of a network or association, since it is a crime that can be committed by any individual person..." "... both rules are applicable in the terms as stated in the art. 77 of the code, while the sentence of imprisonment to be imposed only..." Article 510 punishes those who incite discrimination, hate or violence against groups or associations, based on race, anti-Semitic or other based on ideology, religion, national origin, sex, sexual orientation, illness or disability, as well as those who, with knowledge of its falsity or reckless disregard to the truth, disseminating insulting information on groups or associations for the same reasons (ideology, religion, beliefs, etc.). Article 515 refers to the unlawful associations and Article 517 refers to the founders, directors, presidents, and active members of those unlawful associations.

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