

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
Sweden	2015		Sweden / Court of Appeal for Southern Norrland / Case no. B 906-15	Racial or ethnic origin	Court of Appeal for Southern Norrland (Hovrätten för nedre Norrland)	The Court of Appeal of Southern Norrland (Hovrätten för nedre Norrland) found three high school boys guilty of incitement of hatred (hets mot folkgrupp) and thus overruled the Ångermanland District Court (Ångermanland tingsrätt) ruling that had freed all three boys from this charge. The boys had shouted the word "negro" in a school corridor in front of 10 other persons. While the District Court did not consider the dissemination prerequisite met since the utterances had not been disseminated to a large number of people with the intent to attract attention, the Court of Appeal considered the prerequisites met.	The Court of Appeal sentenced the boys for incitement to hatred/hate speech in accordance with Chapter 16, Section 1 of the Penal Code (Brottsbalk [1962:700])[1]. The penalty for E.S. and N.L. was limited to fines. A.K.'s sentence for abuse (misshandel) according to Chapter 3, Section 5 of the Penal Code (Brottsbalk [1962:700])[2] was affirmed by the Court of Appeal that argued that since A.K. was a minor the sentence could should include the penalty for incitement of hatred.	The Court of Appeal reviewed witness statements from the hearings in the District Court and found that the number of people present during the incident was high enough to meet the dissemination requirement regarding incitement to hatred and hate speech teshold. The Court argued that the boys' insults were indeed, intended to be heard and were heard by other people than those of the so-called private sphere (interna sfären). Consequently, the three boys were found guilty of incitement to hatred. However, the Court of Appeal kept the penalty value low due to the limited number of persons that were able to hear the statements.	The key issue concerns the dissemination prerequisite that must be met for a crime to be interpreted as incitement to hatred. The two courts differed in their assessment of what should be considered to be dissemination beyond the private sphere. The District Court found that the prerequisite was not met since the racist expressions were only heard by 10 fellow pupils in the school, which the Court considered to be too little. The Court of Appeal focused more on the intent to disseminate the expressions and argued that it was clear that the offenders' intent was clearly to make their statements heard by others. Both, the intent together with the fact that the expressions were heard by others constituted incitement to hatred. According to the Court of Appeal, the number of persons that actually heard the expressions should not influence the crime classification. However, the number should influence the extent of the given fine.	"Hovrätten ansluter sig till tingsrättens bedömning att det varit fråga om uttalanden som uttrycker missaktning mot en grupp av individer med en viss hudfärg och ursprung." "The Court of Appeal agrees with the District Court's assessment that the statements in question expressed contempt for a group of individuals with a certain colour and origin." "Hovrätten ansluter sig till tingsrättens bedömning att det inte är utrett att det var fler än tio personer i skolkorridoren som kunde uppfatta vad som yttrades av A., N. och E. Nio personer har således kunnat uppfatta vad var och en av de tilltalade yttrat. Yttrandena var avsedda att uppfattas av och har också nått andra än personer i den interna sfären. Hovrätten anser till skillnad från tingsrätten att så många personer fått del av yttrandena att kravet på spridning är uppfyllt. A.K., N.Loch E.S. ska därför dömas för hets mot folkgrupp i enlighet med åtalet. Med hänsyn till att ett förhållandevis begränsat antal personer har kunnat uppfatta uttalandena bör brottet emellertid bedömas som ringa." "The Court of Appeal agrees with the District Court's assessment that it is not clear that there were more than ten people in the school corridor who could hear what was uttered by A., N. and E. Nine persons have thus been able to hear what each of the defendants uttered. The expressions were intended to be heard by and have also been heard by persons outside the internal sphere. Unlike the District Court, the Court of Appeal considers that as many persons heard the expressions for the dissemination prerequisite to be met. A.K., N.L. and E.S. should therefore be sentenced for incitement of hatred accordance with the prosecution. However, since a relatively limited number of people have been able to hear the expression, the offense should be regarded as petty." Sweden, Court of Appeal for Southern Norrland (Hovrätten för nedre Norrland), case number B 906-15. The case is not available online but may be requested from the court in question using the case number.

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