# 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 |
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| Greece | 2016 | Greece / Single Member Misdemeanour Court of Rethymno / Decision 2383/2015 | | Nationality | Misdemeanour Court of Rethymno | The Misdemeanour Court of Rethymnon acquitted Professor Richter and put an end to his prosecution for denying, undermining and approving the war crimes committed by Germans in Crete during the Nazi occupation in his book "The Battle of Crete". This was the first case to examine hate speech in light of the Council Framework Decision 2008/913/JHA, of 28 November, on combating certain forms and expressions of racism and xenophobia by means of criminal law. | The provision of the law that refers to genocide and crimes against humanity "recognized by Parliament" is contrary to the Constitution and European law, thus invalid and inapplicable. The defendant is acquitted of all charges. Richter was the first to be prosecuted under this provision. The case has provoked intense public dialogue in both mass and social media. The acquittal of the professor was characterised as a victory for the freedom of speech and has reopened the dialogue on the abolishment of the article. | By adding as element of the crime the condonation, humilation or denial or "crimes recognized by parliament decisions", the legislature has exceeded its function, violating the constitutional principle of the legality of criminal offences and attempting to substitute judicial authority. Equally, it has violated the freedom of speech and academic freedom, and also breached the duty to promote mutual and loyal cooperation between EU member states, deviating substantially from the provisions and the purposes of Framework Decision 2008/931/JHA which this law transposed in the Greek legal system. | Constitutional control and interpretation of the law in the light of the rule of law, the principle of separation of powers and the freedom of expression and academic freedom. The provision is unconstitutional in the punishment of the denial of genocides and war crimes "recognized by Parliament". Clarification of the scope of application and purposes of Framework Decision. The phrase "recognised by the Parliament" is beyond the scope of the Framework-Decision, which refers only to the recognition of war crimes by decisions of international or/and national courts. | ".. ο νομοθέτης... δεν θεμελίωσε το αξιόποινο αποκλειστικά σε κανόνα δίκαιου ως όφειλε, αλλά στην αναγνώριση και το νομικό χαρακτηρισμό γεγονότων του παρελθόντος ως εγκλημάτων με νόμο, υποκαθιστώντας έτσι τη δικαστική κρίση... παραβίασε την ελευθερία του λόγου και την ακαδημαϊκή ελευθερία, δοθέντος ότι οι νόμοι που «αναγνωρίζουν» (ή θεσπίζουν) ιστορικά γεγονότα, ακόμη κι αν εκφράζουν την πλειοψηφία, δεν μπορούν σε μια δημοκρατική και πλουραλιστική κοινωνία ....να αποτελούν τη βάση δεσμευτικών κανόνων που να συνεπάγονται νομικές απαγορεύσεις και κυρώσεις... παραβίασε το καθήκον αμοιβαίας και πιστής συνεργασίας της Συνθήκης της ΕΕ., διότι...εξάρτησε το αξιόποινο από «αποφάσεις της Βουλής» το οποίο η ίδια σαφώς απέκλειε.". "..... the legislature ....did not base the offense only a legal rule, but in the recognition and legal characterisation of past events as offenses, substituting, in this way, the courts' judgment.... violated the freedom of speech and academic freedom, because even if the laws which "recognize" (or adopt) historical events, represent the will of the majority, they cannot, in a modern democratic and pluralistic society... form the basis of binding legal prohibitions and sanctions. .....(the legislature) breached the duty of a mutual and loyal cooperation between EU member states, deviating substantially from the provisions and the purposes of the Framework Decision, because..... it based the offense on the "decisions of the Parliament" something the Framework Decision precluded clearly." |

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http://fra.europa.eu/en/databases/anti-muslim-hatred/

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