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
Netherlands	2016	Netherlands / District Court The Hague / Case no. 09/837304-15 ECLI:NL:RBDHA:2016:15014	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2016:15014	Racial or ethnic origin, Racial or ethnic origin	District Court The Hague (Rechtbank Den Haag)	On 19 March 2014 elections for municipal government were held. The political party PVV of Geert Wilders participated in those election in two municipalities: Almere and the Hague. On the election night Wilders asked his audience during a meeting of party followers in the Hague: "do you want more or less Moroccans in this city and in the Netherlands?". In response, the audience - which was instructed beforehand - repeatedly chanted "less". Subsequently more than 6000 people pressed charges against Wilders. The Public Prosecution Service decided to prosecute Wilders because of incitement to hatred and discrimination and on the charge of insulting a group of people because of their race.	Political actors are not allowed under Dutch criminal law to make discriminatory or insulting statements about racial or ethnic groups. Statements insulting racial groups or inciting to discrimination of racial groups are criminal under respectively Article 137c of the Dutch criminal code and 137d of the Dutch Criminal Code. Moroccans are a racial group under Dutch criminal law and therefore protected by these Articles.	Insulting a group because of their race or inciting discrimination against a group are punishable under Dutch law criminal law. When on 19 March 2014, Wilders asked his audience "do you want more or less Moroccans in this city and in the Netherlands?" and the audience - which was instructed beforehand - answered chanting "less", he singled out an entire group of citizens without making any distinction. This statement affects the dignity of Moroccans as a group because of their race or national origin. The statements of 19 March 2014 also made a distinction between the Moroccan population and other population groups in the Netherlands. Because of their offensive character these statements incited other people to discriminate people of Moroccan origin.	The verdict clarified two key issues. First of all the concept of 'race' in the sense of the Dutch Criminal Code includes the term 'Moroccans'. The legal definition of race is much broader than its common definition in everyday language and scientific research. The defense argued that Moroccans are solely a nationality and are not protected against incitement to discrimination because of that. The freedom of expression may be restricted in cases foreseen by the law. Dutch criminal law allows for the restriction of freedom of speech when persons insult a group because of their race. Politicians are not exempted from prosecutions for statements they make in public.	"Naar het oordeel van de rechtbank hebben de uitlatingen van verdachte van 19 maart 2014 een discriminatoir karakter. De strekking van de uitlatingen is namelijk onmiskenbaar om een onderscheid te maken tussen Marokkanen en andere bevolkingsgroepen in Nederland. Hiermee kunnen die uitlatingen, mede gelet op de reeds meermalen besproken omstandigheden waaronder deze zijn gedaan en in het bijzonder gelet op het opruiende karakter ervan, worden aangemerkt als uitlatingen die anderen aanzetten tot discriminatie van personen met een Marokkaanse afkomst." "In the opinion of the court, the statements of the accused of 19 March 2014 have a discriminatory character. The thrust of his remarks was, clearly, to distinguish between Moroccans and other groups in the Netherlands. These statements, in view of the already considered circumstances under which they were made and, in particular, given the incendiary nature of these statements, must be regarded as statements that incite others to discriminate against persons of Moroccan descent." "Met zijn uitlatingen op 19 maart 2014 tijdens een verkiezingsbijeenkomst heeft verdachte bijgedragen aan een verdere polarisatie binnen de Nederlandse samenleving. Dit terwijl juist in onze pluriforme maatschappij het gelijkheidsbeginsel en het respecteren van (rechten van) anderen van groot belang zijn. Dat verdachte zegt zich gesteund te voelen door mogelijk miljoenen mensen, maakt niet dat hem geen verwijt kan worden gemaakt. Groepsbelediging en aanzetten tot discriminatie zijn strafbaar. Daar staat tegenover dat het hoofddoel van dit strafproces de beantwoording van de vraag is of verdachte zich schuldig heeft gemaakt aan deze strafbare feiten. Met dit vonnis is die vraag beantwoord en daarmee is de in ons rechtsstelsel voor iedereen geldende norm bevestigd: je kunt niet met een beroep op de vrijheid van meningsuiting groepen beledigen of aanzetten tot discriminatie. Dat geldt ook voor een politicus." "With his statements on 19 March 2014 during an election rally the accused contributed to further polarization in Dutch society although in in our plural society the principle of people and the practice of respecting the (rights) of other people are of the utmost importance. The fact that the accused claims he feels supported by millions of people, does not mean he cannot be blamed. Insulting a group of people and incitement to discrimination are punishable. However, the primary objective of this trial to answer the question whether the accused is guilty of these offenses. This judgment has answered that question and in this way it confirms the following legal standard in our legal system: you cannot appeal on the right to freedom of expression groups when insult groups or incitement to discrimination. This also applies to a politician."

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