

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 / Court of Appeal Amsterdam / Case no. 23-003966-13 ECLI:NL:GHAMS:2016:828	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHAMS:2016:828	Religion	Court of Appeal Amsterdam (Gerechtshof Amsterdam)	In a documentary about the Dutch politician Geert Wilders a man, presented as a follower of Geert Wilders, spoke about Arabs as "fervent ass crashers" (fervent kontenbonkers), who also "fuck young boys". According to him this is "normal in their culture". The Court of Appeal decided that these statements do not constitute an insult of Muslims on the ground of their religion, under Article 137c of the Dutch Criminal Code. The Court believed that the accused meant Muslims when he talked about Arabs and thus, he stood trial for publicly and intentionally insulting Muslims on the ground of their religion.	Statements which are insulting to a religion are not punishable under Article 137c of the Penal Code if these statements serve a purpose in public debate and are not gratuitously offensive.	The Court considered that the statements made by the accused were unmistakably insulting. The Court also considered, on the other hand, that the statements of the accused were made during a public debate, more specifically during an interview before an anti-Islam demonstration. According to the Court, it cannot be said that these kinds of statements serve no useful purpose in public debate. The question was ultimately whether the expressions used were gratuitously offensive. If so, the context of the public debate overrides the insulting character of the statements. The Court answered that question in the negative, stating that everyone who wants to raise topics of common interest should be free to do so, even if the statements are offensive, shocking or disturbing.	A statement about a group is insulting if it impairs the self-respect or honour of the group, or discredits the group, because it belongs to a particular race, religion or belief. The context is particularly important for the determination of liability under Article 137c 5f. If the statements were made in the context of, for example, a public debate, this can reduce the punishable insulting-character of the statement. However, this is only when the statements are not gratuitously offensive. The Court decided that these statements were not gratuitously offensive. The Court answered that question in the negative, stating that everyone who wants to raise topics of common interest should be free to do so, even if the statements are offensive, shocking or disturbing.	"Ten slotte dient onder ogen te worden gezien of de uitspraken in dat verband onnodig grievend zijn te noemen. Het hof beantwoordt deze vraag ontkennend. Degene die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn ogen van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontrusten. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte veronderstelde feitelijkeheden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat laatste ook zijn bedoeling was, is onmiskenbaar -, maar het maatschappelijke debat in dezen kenmerkt zich wel vaker door provocerende en onsmakelijk taalgebruik van de deelnemers aan dat debat."

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