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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Italy	2017	Italy / Ordinary Court of Milan - 7th Criminal Section/Decision of 18 December 2017	http://www.osservatoriodiscriminazioni.org/index.php/2019/07/26/tribunale-ordinario-di-milano-sentenza-18-dicembre-2017/	Religion	Ordinary Court of Milan - 7th Criminal Section (Tribunale Ordinario di Milano - Sezione 7° Penale)	After the Paris terrorist attack of 13 November 2015, the Italian newspaper "Libero" issued an article - on its front page - titles "Islamic bastards". Many associations filed complaints against this title but the Court accepted only the CAIM (Coordination of Islamic Associations of Milan, Monza and Brianza) as party in the proceeding. The Public Prosecutor asked the Court to condemn the newspaper - and its director - for the criminal offence of vilification of a religious belief (art. 403 of the Italian Criminal Code) with the agravation of incitement to racial hatred (art. 3.1 of Law No. 205/1993), asking also for a financial compensation of EUR 8,300.	The perpetrator was acquitted.	The Court dismissed the case and acquitted the perpetrator. According to the judicial authorities, the considered title used a strong and derogatory language: the word "bastard" is extremely offensive and results in a strong emotional impact in the reader. Despite the argumentation of the defendent - according to which the word "Islamic" is to be considerd as an adjective referring to the noun "bastard" which, in its turn, exclusively refers to the authors of the terrorist attack - the members of the Muslim community could easily interpret the title as referring to all Muslims. However, as far as art. 403 of the Criminal Code is concerned, the criminal offence it governs is perpetrated when a specific person (or group of persons) is outraged and attacked and if this specific person (or group of persons) is practing the religion or can represent it (as it would be the case of an Imam, for instance). Since the title - despite the use of a reprehensible expression - does not refer to a religious minister or to a specific subject practicing the religion, it cannot be considered as a vilification of a religious faith.	With this decision, the Court clarified the criminal offence of vilification of religion, as ruled by art. 403 of the Italian Criminal Code. This kind of offence is perpetrated only when a specific subject – clearly representing or practicing the considered religion – is outraged and attacked. According to the Court, this was not the case of the article's title considered in this proceeding. Consequently, in this kind of hate speech cases, it might be preferable to refer to the discriminatory grounds of the incident and, therefore, pointing out a violation of the Law No. 205 of 25 June 1993 on "Urgent measures to contrast racial, ethnic and religious discriminations".	"La fattispecie di reato è integrata, dunque, solo se l'offesa sia diretta a una persona che professa la religione o un ministro di culto e attraverso la condotta offensiva sia stato offeso il sentimento religioso della collettività dei fedeli. Espresso in altri termini il concetto, il vilipendio alla religione deve transitare attraverso l'offesa del singolo individuo che diviene oggetto di tale condotta mentre non vi è vilipendio se l'offesa è rivolta alla moltitudine indifferenziata dei credenti. Ed è su questa considerazione che l'imputato va mandato assolto perché il fatto non sussiste: egli pur utilizzando espressioni non condivisibili per il connotato intrinsecamente spregiativo delle stesse e per l'ambigua attribuzione dei termini, non ha commesso vilipendio della religione perché non ha diretto la sua azione a un ministro di culto o al singolo individuo che la professa" "The considered criminal offence is perpetrated only if the offense is addressed to a person practicing the religion or to a faith minister, and if through the offensive conduct also the religious sentiment of the worshippers' community is offended. In other words, vilification of religion must be based on the offense directed towards the specific subject who thus becomes object of the conduct. It is not vilification if the offense is directed towards the general community of worshippers. This being said, the defendant must be acquitted because the case does not subsist: even if the title he used is considered reprehensible because of its derogatory connotation and the ambiguous allocation of the words, he did not perpetrate vilification of the religion because he did not addressed its action to a faith minister or to a subject practicing the religion"

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