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
Serbia	2018	Serbia / National Court/Higher Court in Belgrade/10 P 1725/2018		Racial or ethnic origin, Religion, Nationality	Higher Court in Belgrade (Viši sud u Beogradu)	This case was litigated in the civil proceeding by an NGO (Lawyers' Committee for Human Rights) - plaintiff, against the newspaper "Kurir" and its hardcopy and online editors - defendants. Both hardcopy and online versions of "Kurir" published an article that uncovered a photography of the Member of the Belgrade City Assembly (Mr. Danko Runić) sitting next to the Albanian flag and wearing queleshe (traditional Albanian cap). The article portrayed the criticism raised against this photography by Mr. Runić's political adversaries. The plaintiff argued that the article depicted Mr. Runić in a disparaging and accusatory manner in support of the idea that Mr. Runić is a national traitor for his alleged affiliation with Albanians. The online article was followed by numerous comments requesting Mr. Runic's public execution, depicting Albanians as criminals, and calling for football fans to deal with this situation.		The Higher Court in Belgrade found that the comments posted under the article in question encompass opinions and ideas that incite hatred and violence pursuant to Article 38 of the Law on Public Information and Media. The Court found the editor of the online edition of "Kurir" liable for discrimination against Albanian national minority by allowing hate speech comments to be posted and by not removing them from the webpage. The Court previously rejected plaintiff's claim that the article itself characterizes hate speech.	The first key issue was whether the comments posted under the article reflect ideas that incite hate speech and violence against the Albanian national minority. The second issue was whether the editor of the online edition of "Kurir" is liable for discrimination against the Albanian national minority by allowing these comments to be posted. As for the first key issue, the Court ruled that the comments express extremely nationalistic stance, ethnical, national and religions intolerance that creates animosity among Serbian citizens against both Albanian national minority and other citizens who are respectful of democratic values and tolerance. The Court was of view that for the hate speech exists when an information incites hatred and discrimination, regardless of the fact whether hatred, violence and tolerance were indeed generated by this information. It is also irrelevant whether such information was expressed in a single, isolated, case or whether it was published frequently. It is also immaterial whether the incitement to hatred, discrimination and violence is based on facts or on value-based assertions. Regarding the second key issue, the Court was of view that the editor in chief did not act with due diligence because she had technical mechanisms at her disposal to prevent the posting of comments. By not acting with due diligence in this case, the editor discriminated against the Albanian national minority. Allowing the hate speech comments to be posted cannot be justified by the interest of the public to be informed about social phenomena because the lack of due diligence in this case infringes upon other people's rights.	"U konkretnom slučaju objavljivanjem spornih komentara izražena je neprimerenost slobode izražavanja ideja i mišljenja u komentarima čitalaca, jer se javnost o stavovima čitalaca mogla informisati i na drugi način, a ne objavljivanjem komentara koji sadrže ideje, informacije, mišljenja kojima se podstiče diskriminacija, mržnja ili nasilje protiv lica ili grupe lica zbog njihovog pripadanja ili nepripadanja nekoj veri, naciji i etničkoj grupi, bez obzira da li je objavljivanjem učinjeno krivično delo. Sud ukazuje da sporne informacije u komentarima predstavljaju govor mržnje bez obzira da li su iste stvarno izazvale omraženost i nasilje prema pripadnicima albanske nacionalne manjine." (page 19) "In the present case, the posting of contentious comments denotes readers' outrageous exercise of the freedom of expression, because the public could have been informed about readers' attitudes in another way and not by the manner of posting comments that contain ideas, information and opinions that incite to discrimination, hatred or violence against a person or a group because of their belonging or not belonging to the particular religion, nation or ethnicity, irrespective of the fact whether the posting of these comments is a criminal offense or not. The Court points out that the contentious information in the comments represent hate speech and that it is irrelevant whether this information had actually provoked hatred or violence against the members of Albanian national minority. "

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