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
Cyprus	2019	Cyprus / District Court of Nicosia/ Case No. 775/2018, Nicosia Police Director v. XXX Merkouri	http://www.cylaw.org/cgi-bin/open.pl?file=apofaseised/poin/2019/1220190028.htm&qstring=%EC%E5%F1%EA%EF%F5%F1%2A	Racial or ethnic origin	District Court of Nicosia (Επαρχιακό Δικαστήριο Λευκωσίας)	In 2016 the complainant who is the father of two adopted children from Asia posted the children's photos on Facebook. The defendant comment on Facebook that the complainant was 'stupid' to have adopted children from Asia. The complainant filed a complained to the Commissioner for the rights of the child who, in turn, filed a report to the police. After eight months the police invited the defendant for a statement. She admitted having posted the comments but denied that there was any racist element. In Court she admitted the charge and there was no hearing.	In light of the mitigating factors in favour of the defendant the Court decided the case was not serious enough to warrant a prison sentence and imposed a file of €800. This was the first case decided by a Cypriot court concerning racial hate speech.	The Court took into account the mitigation factors presented by the defence (no criminal record, her age, health issues, alcohol dependence) and pointed out a number of additional factors in her defence: She did not incite violence nor did violence result from her comment, she did not repeat the comment, a long time had passed since the offence was committed and the complainant (who had not filed the complaint with the police) considered the matter closed.	Since there was an admission on the part of the defendant and therefore no case to prove, the Court's reasoning focused on the mitigation factors to conclude that, although racial hate speech is a serious problem, the particular incidence was not serious enough to warrant a prison sentence. The Court pointed out that, contrary to the submissions of the defence, Cypriot society is facing a problem of racism and the fact that no prosecutions are filed does not meet the problem does not exist. The Court did not refer to the reason why there are not enough prosecutions.	"Στην προκειμένη περίπτωση όμως, διαπιστώνω ότι η ίδια η κατηγορούμενη είχε περιοριστεί μόνο σε αυτά τα σχόλια, δεν επανέλαβε ξανά τη συμπεριφορά της, αναζήτησε βοήθεια και ως εκ τούτου δέχομαι ότι ήταν μεμονωμένη πράξη. Για τον λόγο αυτό και ενόψει του ότι δεν συνοδεύτηκε από οποιανδήποτε φράση που να καλούσε σε βίαιη συμπεριφορά ή να είχε αποτέλεσμα βίαιης συμπεριφοράς κρίνω ότι η ποινή φυλάκισης δεν ενδείκνυται και ως εκ τούτου μπορεί να αντιμετωπιστεί με ποινή προστίμου. Το γεγονός επίσης ότι μεσολάβησε και μεγάλο χρονικό διάστημα μέχρι και την καταγγελία και εντέλει μέχρι και τη δίωξη δικαιολογεί αυτήν την αντιμετώπιση. Δεν μου διαφεύγει ότι και ο ίδιος ο παραπονούμενος δεν είχε απευθυθεί στην Αστυνομία και είχε κρίνει και ο ίδιος το θέμα λήξαν. " " In the case at hand however, I note that the defendant had restricted herself only to these comments, did not repeat this behaviour, sought help and as a result I accept that it was an isolated incident. For this reason and given the fact that this was not accompanied by any phrase calling for violent behaviour, I conclude that the prison sentence is not appropriate and that this can be addressed with a fine. The fact that a long time had passed until the complaint and finally until prosecution justifies this treatment. I cannot ignore the fact that the complainant had not filed a complaint to the police himself and that he considers the matter closed. "

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