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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Slovakia	2019	Slovakia / the Supreme Court of the Slovak Republic / 4Volpp/1/2017	https://obcan.justice.sk/infosud/-/infosud/i-detail/rozhodnutie/e7e4eb05-2579-4b8a-bad2-dff4e54852e4%3A515ba773-582b-4247-9b12-fa0c3692c62d	Migrant status	The Supreme Court of the Slovak Republic	The case concerns the proposition to dissolve the far-right political party Ľudová strana naše Slovensko (People's Party - Our Slovakia further as "the party"). The lawsuit was filled in and sent to the court by the General Prosecutor arguing that the programme and goals of the party are in direct contradiction to the Constitution of the Slovak Republic, mainly the art. 29 para 3 of the Constitution on the protection of freedoms and rights of others. The lawsuit addresses multiple issues whereas the party´s position towards migrants constitutes only small part of the prosecutor's argument. The party´s programme claims "to not allow migrants to take over Slovakia. Slovakia is not Africa, we will never submit to foreigners. We will rebuild the protection of borders. We will engage the army to protect the border. We will not accept a single migrant. We will deport all migrants that were forced to us by the EU or the government." The party further strongly warns against incoming hordes of migrants and publicly, even on parliamentary platform, vulgarly dishonoured Islamic religion.	The Supreme Court issued a verdict denying dissolution of the party. In general, the court ruled, that the General Prosecutor did not submit enough evidence to support his claim. It is not enough for a political party to express unconstitutional goals, but the accused political party must act upon these goals through real actions. Regarding migrants, the Supreme Court stated, that the programme of the defendant is in line with the official policy of the government, whereas it is possible to refer to the lawsuit filed by the Slovak governed at CJEU concerning quotas for distribution of migrants within EU.	With regard to migrants, the main arguments of the General Prosecutor was that the party´s goal not to accept a single migrant and to deport those already accepted is in contradiction to Universal Declaration of Human Rights, Convention relating to the Status of Refugees and Convention relating to the status of stateless persons as well as to the Asylum Act 480/2002 in cases, where the conditions to initiate asylum procedure have been met. Realisation of the party programme means establishing persecution, intimidation through creating an image of the enemy and oppression of targeted groups of population. The party argued back with the right to participate on foreign policy decision-making. They referred to the lawsuit filed by the Slovak government concerning migrant quotas, as well pointed out terrorist attacks committed by migrants in EU countries. The party stated, that it never questioned the right to asylum and objected, that the prosecutor does not distinguish between terms migrant and refugee.	The Supreme Court referred to practice of ECHR, while the most challenging proved to be the non/existence of plausible evidence, that the threat to democracy is sufficiently imminent. ECHR repeatedly acknowledged that "with regard to plurality of ideas and parties as inherent part of democracy, a state can inhibit realisation of a political project incompatible with values of the Convention, before it is realised through individual acts that are possibly threatening peace and democratic regime (Refah Partisi against Turkey §102)." According to ECHR practice, actions themselves are not crucial (whether the party really incites violence, builds militia, etc.) but the potential to realize the change is. In other words (with simplification), until the party is marginal, it can express freely. When it gains larger amount of votes, it will be dissolved because it gained the real potential for political change." According to the Supreme Court, the General Prosecutor did not submit enough evidence that the party is a real threat to democracy.	"136. Z vykonaného dokazovania podľa názoru najvyššieho súdu je možné dospieť k záveru, že žalobca nepredložil dôkazy o tom, že riziko ohrozenia demokracie žalovanou politickou stranou je dostatočne bezprostredné. Žalovaná politická strana je síce stranou parlamentnou so 14 zvolenými poslancami (aktuálne s 13 poslancami), avšak na prijatie akéhokoľvek zákona či len zmeny zákona nedisponuje potrebným počtom hlasov. Aby bolo možné pristúpiť k rozpusteniu politickej strany, nestačí podľa názoru najvyššieho súdu, len populistické prehlasovanie protiústavných cieľov, ale žalovaná politická strana musí skutočne bojovať proti slobodnému demokratickému poriadku alebo existencii štátu na strane jednej a žalobca v žalobe opísanými konkrétnymi skutkami musí takéto konanie opísať a podložiť dôkazmi. Za tohto skutkového stavu veci najvyšší súd sa nateraz nestotožnil s tvrdením žalobcu o bezprostrednej existencii rizika ohrozenia existujúceho demokratického zriadenia, keďže nebolo dostatočne konkrétne preukázané. " "136. Based on submitted evidence, according to the Supreme Court it is possible to come to the conclusion that the plaintiff did not offer evidence that the risk of threat to democracy is sufficiently immediate. Even if the accused political party is a parliamentary party with 14 elected MPs, it has not enough votes to enforce its law or any change to the law. In order to proceed with the abolition of a political party, it is not enough that the party proclaims populistic anti-constitutional goals, the political party must really act against the liberal democratic order or existence of the state, at the same time, such action must be described in detail and supported by the evidence in the proposal submitted to the court by the prosecutor. Based on the facts of the case, the Supreme Court at the moment does not agree with the argument of the prosecutor on the immediate threat to the existing democratic system, since it has not been sufficiently demonstrated. "

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