

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
Finland	2019	Finland / Helsinki Court of Appeal / 19/147289, R19/1258. A copy of the decision can be requested from the registry of the Helsinki Court of Appeal.	https://oikeus.fi/hovioikeudet/helsinginhovioikeus/fi/index.html	Racial or ethnic origin, Religion	Helsinki Court of Appeal (Helsingin hovioikeus/Helsingfors hovrätt)	The defendant (A) had quoted on his Twitter account statements which the Supreme Court had found defamatory in a case where a Finnish MP had been convicted of incitement to hatred and breach of the sanctity of religion (KKO:2012:58). The MP had described Islam as "a paedophile religion" and had held that "theft and leading a parasitic life by living off welfare is a national and maybe even genetic characteristic of Somalis". The defendant A claimed that by quoting the statements on Twitter he wanted to criticize the Supreme Court decision, which he considered as "miscarriage of justice". He had not made the objectionable statements himself but had only quoted the text of the decision. As a local politician, he had the right to express his views and generate public debate. Also, the Supreme Court decision had already been reported in the media at the time, without any imposition of criminal sanctions.	The district court had sentenced the defendant to 60 day fines (€ 420) for incitement to hatred (ethnic agitation) and breach of the sanctity of religion. The court of appeal upheld the decision.	The court of appeal applied the relevant provisions in the Criminal Code (incitement to hatred and breach of the sanctity of religion) in light of freedom of expression as provided for in the Constitution Act, the ECHR and the case law of the European Court of Human Rights, particularly the cases of <i>Féret v Belgium</i> (16 July 2009) and <i>Jersild v Denmark</i> (23 September 1994). The court noted that it was not clear from the tweets posted by A that they were referring to and quoting the Supreme Court decision. It was thus difficult to understand them as criticism of the decision. Publishing defamatory statements as such, without appropriate criticism and comments or without offering reasoned views, does not fall within the purview of freedom of expression. The fact that a statement is made in the context of a political or public debate does not alone mean that the statement would not be deemed reprehensible under criminal law. The defendant's role as a politician could not be considered as a mitigating circumstance.	Relying on the views of the European Court of Human Rights, the court of appeal emphasised the importance of making a distinction between factual reporting of racist actions and reporting with the purpose of propagation of racist views and ideas. The latter is not protected by freedom of expression.	"Hovioikeus katsoo, että A:n panetteleva ja herjaava lausuma on ollut omiaan herättämään suvaitsemattomuutta, halveksuntaa ja mahdollisesti jopa vihaa sen kohteena olevia somaleita kohtaan. Lausuma on siten ymmärrettävissä niin sanotun vihapuheen kaltaiseksi lausumaksi, joka ei nauti sananvapauden suojaa. ... Hovioikeus katsoo lisäksi, että A:n väittämä tarkoitus kritisoida kyseistä korkeimman oikeuden ratkaisua ei ole oikeuttanut sanotun vihapuheen herjaavien väitteiden esittämiseen, kun A on ilmaissut kritiikkinsä vain toistamalla rangaistavaksi katsotun lausuman sellaisenaan. Tällaiset herjaavat lausumat ovat omiaan herättämään ja vahvistamaan uskonnollista suvaitsemattomuutta ja ennakolluuloja, eikä sanotunkaltaisille herjaaville lausumille ole annettava sananvapauden suojaa." "The court of appeal finds that A's defaming and insulting statement has been likely to arouse intolerance, contempt and possibly even hatred against the target group, Somalis. The statement can be categorised as hate speech, which does not enjoy the protection of freedom of expression. ... The court of appeal also finds that A's alleged purpose of criticizing the Supreme Court decision did not justify the publishing of the defaming statements, when A had expressed his criticism by simply repeating the objectionable statement as such. Such defamatory statements are likely to arouse and increase intolerance and prejudice against religious groups, and such statements shall not enjoy the protection of freedom of expression."

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