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
Finland	2019	Finland / Rovaniemi Court of Appeal / 19/150674, R18/856 A copy of the decision can be requested from the registry of the Rovaniemi Court of Appeal	https://oikeus.fi/hovioikeudet/rovaniemenhovioikeus/fi/index.html	Religion	Rovaniemi Court of Appeal (Rovaniemen hovioikeus / Rovaniemi hovrätt)	The defendant was a Sunni Muslim from Iraq and had applied for asylum in Finland. He had uploaded on his open Facebook page 11 videos as well as pictures depicting violent acts or brutal violence allegedly committed by Shia Muslims against Sunni Muslims. He had also written on his Facebook wall, in Arabic, that Shia Muslims were murderers and Iran's henchmen and should be cursed and removed from Iraq. The defendant claimed he had wanted to comment on the crimes against humanity committed in his home country and to express his opinion on the political situation in Iraq. He was referring to the Shia militia, not Shia Muslims as a religious group. The defendant appealed against the decision of the district court, which had convicted him of incitement to hatred and distribution of depictions of violence.	The district court had sentenced the defendant to 50 day fines (€ 300) for incitement to hatred and distribution of depictions of violence. He was also ordered to delete the impugned material and comments from his Facebook page. The defendant had been held in custody for 18 days during the process. The district court deemed this loss of liberty to be full service of the punishment. The court of appeal upheld the decision.	The court of appeal agreed with the district court's reasoning. The right to express political views is at the core of freedom of expression and cannot be restricted without a compelling reason. However, according to the case law of the European Court of Human Rights, hate speech is not protected by freedom of expression. Keeping publicly available recordings, which contain brutal violence, is likely to cause anxiety, fear and hatred in society and is comparable to hate speech. If the defendant's purpose was to impart information, he could have done so without distributing depictions of brutal violence. The district court admitted that the divide between Shias and Sunnis is not primarily about religion. However, the defendant's comments were not referring to Shia militia only but to Shias as an ethnic group, as defined in the Criminal Code provision on incitement to hatred. When expressing his views on social and political problems in Iraq, the defendant had used strong generalisations. His views were not objective and they were likely to arouse strong feelings, contempt and hatred against the opposing party in the conflict. The recordings and views presented on the defendant's Facebook page were not protected by freedom of expression.	The defendant challenged the district court's jurisdiction in the matter, on the grounds that he was an Iraqi national and his home country was Iraq. He had commented on the political situation in Iraq, in Arabic, and in Facebook, which is a universal forum. His acts did not take place in Finland and were not targeted at Finland. The court replied that Finnish law applies to an offence committed in Finland. The defendant had uploaded the recordings and comments on his Facebook page while residing in Finland. His nationality, home country or the language used had no relevance in the assessment of the case. Freedom of expression protects political views that may even be offending, shocking or disturbing. However, such protection does not extend to hate speech or depictions of violence with the purpose of ethnic agitation.	"Käräjäoikeus pitää sinänsä riidattomana, että kyse on ollut poliittisesta mielipiteen ilmaisusta ja yhteiskunnallisista epäkohdista kertomisesta, minkä rajoittamiseen tulee sananvapauden nojalla suhtautua rajoittavasti. Kirjoitusten sävy on kuitenkin ollut voimakkaan yleistävä ja esitetty materiaali on ollut asetelmaltaan yksipuolista ja voimakkaita tunteita herättävää, mikä on ollut omiaan herättämään vihaa ja halveksuntaa toista konfliktin osapuolta kohtaan. Näillä perustein vastaajan sivustollaan esittämä materiaali ei nauti sananvapauden suojaa." "The district court finds it indisputable as such, that this is concerning expression of political views and imparting information on social problems. In such a case, there is a narrow scope for restriction of freedom of expression. However, the writings are strong generalisations and the material presented is biased and likely to arouse strong feelings, hatred and contempt against the opposing party in the conflict. On these grounds, the material on the defendant's Facebook page is not protected by freedom of expression."

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