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
Poland	2019	Poland / Court of Appeals/IIAKa 196/19	http://orzeczenia.ms.gov.pl/content/$N/155000000001006_II_AKa_000196_2019_Uz_2019-08-21_002	Religion	Court of Appeals in Wrocław	The accused was found guilty of posting a comment on the Internet inciting violence against people because of their race and against Muslims. The District Court in Wrocław sentenced the defendant to 8 months of restriction of liberty, obliging him to perform unpaid work for social purposes for 30 hours a month. The defendant appealed against the above judgment, pointing out, inter alia, that the smiley emoticon used by him in the comment indicated that the comment could not be treated as a serious incitement to violence but rather as a joke. He also pointed out that due to his profession (medicine doctor) he cannot perform unpaid work for social purposes.	The appeal of the defendant was dismissed.	The appeal was dismissed. The Court of Appeals found the defender's argument that the smiley emoticon changes the meaning of the comment, depriving it of its insulting meaning, unaccaptable. As the Court pointed out, on the contrary, it is a joke that is very often a carrier of content that should be treated as prohibited by law. The use of a joke does not deprive the actual meaning of the statement. The very content of the statement is essential and it must be assessed in the context of statutory offenses. In the opinion of the Court, the use of the smiley emoticon does not significantly change the meaning of the defendant's comment. The Court also found that the accused must manage his time in such a way to be able to perform the socially useful work.	The use of a joke or a smiley emoticon in the content of a comment does not deprive the actual meaning of the statement inciting violence. The very content of the statement is essential.	"(...) to właśnie żart bywa bardzo często nośnikiem treści, które należy tratować jako zabronione przez prawo. Już tylko dla porządku należy przywołać przypadki żartów, które mają oczywistą treść seksistowską lub rasistowską. Wykorzystanie zabawnej sytuacji, albo wywołanie efektu żartu, nie pozbawia rzeczywistego znaczenia wypowiedzi. Zasadnicze jest bowiem sama treść wypowiedzi, która musi być oceniana w kontekście znamion ustawowych przestępstw. Zdaniem sądu, użycie wskazanego emotikonu nie zmienia istotnie znaczenia wypowiedzi oskarżonego." " (...) it is a joke that is very often a carrier of content that should be treated as prohibited by law. For the record only, cases of jokes that are obviously sexist or racist should be mentioned. The use of an amusing situation or the effect of a joke does not deprive the actual meaning of the statement. The very content of the statement is essential, and it must be assessed in the context of statutory offenses. In the opinion of the court, the use of the indicated emoticon does not significantly change the meaning of the defendant's statement."

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