

Database 2012-2020 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	MAIN REASONING / ARGUMENTATION	KEY ISSUES (CONCEPTS, INTERPRETATIONS) CLARIFIED BY THE CASE	RESULTS (SANCTIONS, OUTCOME) AND KEY CONSEQUENCES OR IMPLICATIONS OF THE CASE	KEY QUOTATION IN ORIGINAL LANGUAGE AND TRANSLATED INTO ENGLISH WITH REFERENCE DETAILS
Poland	2019	Poland / Court of Appeals/IIAK a 196/19	http://orzeczenia.ms.gov.pl/content/\$N/15500000001006_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	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, unacceptable. 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	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.	The appeal of the defendant was dismissed.	"(...) to właśnie żart bywa bardzo często nośnikiem treści, które należy traktować jako zabronione przez prawo. Już tylko dla porządku należy przywołać przypadki żartów, które mają oczywistą treść seksistowską lub rasistowską. Wykorzystanie zabawnej

against Muslim s. 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

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.

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

g out,
inter
alia,
that
the
smiley
emotic
on
used
by him
in the
comme
nt
indicat
ed that
the
comme
nt
could
not be
treated
as a
serious
incite
ment
to
violenc
e but
rather
as a
joke.
He
also
pointe
d out
that
due to
his
profess
ion
(medici
ne
doctor)

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."

					he cannot perform unpaid work for social purpos es.				
--	--	--	--	--	---	--	--	--	--

The information presented here is collected under contract by the FRA's research network FRANET. The information and views contained do not necessarily reflect the views or the official position of the FRA. As of June 2019 information from the UK will no longer be updated.

<https://fra.europa.eu/en/databases/anti-muslim-hatred/en/databases/criminal-detention/criminal-detention>

Copyright © 2022 European Union Agency for Fundamental Rights