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
Sweden	2019	Sweden / Court of Appeal of Skåne (Skåne Hovrätt) / Case number: B 592-19	https://www.domstol.se/nyheter/2019/10/frikannande-dom-i-mal-om-hets-mot-folkgrupp/	Religion	Court of Appeal of Skåne and Blekinge (Hovrätten över Skåne och Blekinge)	The case concerns a prosecutor's appeal of a sentence from a District Court that freed the defendent C.L from the charges of agitation against an ethnic or national group (hets mot folkgrupp). C.L, a group leader for the party Sweden Democrats in Karlskrona, published a post on the party's webpage in November 2017, which was the focus of the case. The Court of Appeal should decide whether the text in question expressed contempt for Muslims in a way that should be considered to be agitation against an ethnic or national group. The Court of Appeal decided that the content of the post could not be considered to be agitation against an ethnic or national group. Nevertheless, the Court stated that the post did include elements that must be considered to be deragatory to Muslims. C.L described Muslims as a group as terrorists and oppressors of women. Furthermore, he stated that their views were medieval. However, the post was published in relation to a political question that had been under heavy debate - the planned construction of a minaret in the city of Karlskrona. The post was not aimed at the general public, but at the persons who followed a specific Facebook page focusing on the debate. Thus, these persons must be assumed to be interested in the debate. In conclusion, the Court assessed that the post's content must be considered to fall within the frames of the freedom of expression as guaranteed in the European Convention. Consequently, the verdict of the District Court was not altered.	The Court of Appeal did not change the District Court's verdict C.L was freed from charges of agitation against an ethnic or national group. As a consquence, the state shall pay for his legal costs, 15,221 SEK (€1478). C.L was entitled to compensation by the state for his appearance in court, a total of 777 SEK (€75.5).	The Court of Appeal focused on the definition and scope a criminal action must have to be considered to be agitation against an ethnic or national group, and its relation to the constitutionally protected freedom of expression. Any restrictions of the freedom of expression must be considered necessary in the democratic society. In order to restrict this right in the individual case the reasons for the restriction must be considered to be relevant and sufficient and the imposed restriction must be proportional in relation to its legitimate purposes. When assessing the criminality of acts that may be considered to be agitation against an ethnic or national group, the court must consider the content and the purpose of the message in question. Furthermore, the court must consider to whom the message is directed and in which context. The possibility to restrict in the freedom of expression is especially limited when it comes to political expressions and in debates on questions of general public interest. The post was published on the Facebook page of the Sweden Democrats in Karlskrona. The post could be read by persons who had chosen to follow the page in the first place. C.L's post was based on the Sweden Democrats' positions and actions in local politics, where the party was strongly opposed to the construction of a minaret. The Court considered that the post was linked to the political and public debate that preceeded it although the link was not completely clear. The potential reader who reads the post can thus be assumed to be aware of the political context and also have an interest in following the question. In the text, C.L connected the existence of minarets with Islamic terror and oppression of women, which makes the post generalising in a way that must be considered derogatory to Muslims. However, the post has been spread in a political context and must therefore – despite its derogatory ingredients – be considered to have the overall aim to comment on an event that engaged many persons in the local political context. It has not reached a general public, but only the persons who followed the Facebook page in question. Consequently, the Court of Appeal did not consider it necessary or proportional to restrict the freedom of expression in this case.	The case clarifies the importance of context when considering whether a statement should be considered to be agitation against an ethnic or national group and thus lead to restrictions of the freedom of expression.	"I texten sätter C.L dock minareter och moskéer – inom islam och för muslimer centrala religiösa byggnader – i samband med islamistisk terror och kvinnoförtryck. I det avseendet är den generaliserande på ett sätt som måste anses nedsättande för muslimer. CL:s inlägg har dock spritts i en politisk kontext och får – trots de nedsättande inslagen – anses ha haft som övergripande syfte att kommentera en händelse som engagerat många och som diskuterats flitigt. Det har inte gått ut till en bred allmänhet utan till personer som följde Facebooksidan. Sett i sitt sammanhang och vid en helhetsbedömning finner hovrätten att det inte kan anses ha varit vare sig nödvändigt eller proportionerligt att inskränka CL:s yttrandefrihet i detta fall." "In the text, C.L connects minarets and mosques – central religious buildings within the Islamic faith and for Muslims – to Islamic terror and oppression of women. In that sense, the post is generalising in a way that must be considered derogatory to Muslims. However, C.L's post has been disseminated in a political context and should – despite the derogatory ingredients – be considered to have had its main purpose to comment an event that had engaged many and been subject to active discussions. It [the text] has not been transmitted to the public, but to persons who followed the Facebook page. In its context, and in an overall assessment, the Court of Appeal does neither consider it necessary nor proportional to restrict C. L's freedom of expression in this case."

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