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
Netherlands	2020	Netherlands / Supreme Court (Hoge Raad) (2020), Case no. 19/02742, 17 March 2020, ECLI:NL:HR:2020:381, available at: https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:381	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:381	Religion	Supreme Court (Hoge Raad)	A man insults a hospital desk clerk who is a Muslim woman and wears a headscarf by making the following statements: "Always those stupid headscarves." and : "Shame on you for wearing a headscarf! You should read the newspaper so you know what's going on in the world." The Court of Appeal sentenced the defendant to a fine of €400.00 on the basis of article 266 of the Dutch Criminal Code for simple insult. (ECLI:NL:GHDHA:2018:3135). In this judgement the Supreme Court confirms the sentence imposed upon the man by the Court of Appeal. Neither the Court of Appeal nor the Supreme Court considered the discriminatory aspect of the judgement.	The Surpreme Court confirms the judgement of the Court of Appeal in which a man who made insulting statements to a Muslim woman wearing a head scarf was sentenced to o a fine of €400.00 on the basis of article 266 of the Dutch Criminal Code which criminalizes insult.	Making statements like "Always those stupid headscarves." and : "Shame on you for wearing a headscarf! You should read the newspaper so you know what's going on in the world." in public to a Muslim wearing a headscarf is a criminal insult under article 266 of the Dutch Criminal Code. The defendant showed contempt towards others. The words used by the defendant apparently had the intention of damaging her reputation and honour and therefore can be regarded as an insult as referred to in Article 266 of the Criminal Code.	Making statements like "Always those stupid headscarves." and : "Shame on you for wearing a headscarf! You should read the newspaper so you know what's going on in the world." in public to a Muslim wearing a headscarf constitutes insult under the Dutch Criminal Code and is therefore criminal. Such remarks cannot be considered to made within the framework of the public debate or as an expression of artistic expression.	"Met zijn uitlatingen heeft de verdachte ten overstaan van anderen blijk gegeven van minachting jegens aangeefster. Aangeefster heeft verklaard dat zij zich vernederd en gediscrimineerd voelde. Het hof is van oordeel dat onder deze omstandigheden de door de verdachte gebruikte woorden kennelijk de strekking hadden aangeefster in haar goede naam en eer aan te tasten en daarmee zijn aan te merken als belediging als bedoeld in artikel 266 van het Wetboek van Strafrecht. Voor zover de verdachte heeft willen stellen dat de uitlatingen zijn gedaan om het dragen van een hoofddoek ter discussie te stellen en in zoverre onderdeel zijn van een publiek debat, overweegt het hof dat de door de verdachte gedane uitlatingen, gelet op de bewoordingen waarin zij zijn gedaan, en gelet op de omstandigheid dat zij zijn gedaan tegen een vrouw met een hoofddoek, zonder meer als beledigend kunnen worden ervaren door degene op wie de uitlating betrekking heeft. Het hof is van oordeel dat de uitlatingen weliswaar zijn gedaan in het openbaar, maar dat de uitlatingen niet zijn gedaan in het kader van het publieke debat of als uiting van artistieke expressie. Immers, de verdachte heeft zelf verklaard dat hij boos was op het slachtoffer omdat zij niet kon vertellen hoe lang het nog zou duren voor zijn vader aan de beurt was en dat hij om die reden de uitlatingen heeft gedaan. Dit betekent dat een nadere toetsing van het al dan niet onnodig grievende karakter van de uitlating achterwege kan blijven en het ten laste gelegde als belediging kan worden bewezen verklaard." "With his statements, the defendant showed contempt towards others. The victim stated that she felt humiliated and discriminated against. The court is of the opinion that under these circumstances the words used by the defendant apparently had the intention of damaging her reputation and honour and therefore can be regarded as an insult as referred to in Article 266 of the Criminal Code. As far as the defendant wanted to state that the statements were made in order to question the wearing of a headscarf and as far as they are part of a public debate, the court considers that the statements made by the defendant, in view of the wording in which they were made and in view of the circumstances in which wete were made against a woman with a headscarf, can be considered as insulting by the victim. The court is of the opinion that although the remarks were made in public, the remarks were not made within the framework of the public debate or as an expression of artistic expression. After all, the defendant himself has stated that he was angry with the victim because she could not tell how long it would take before it was his father's turn and that for this reason he made the statements. This means that a further assessment of whether or not the statement was unnecessariy hurtful can be omitted and the accused can be declared insulting." The Netherlands, Court of Appeal Den Haag (Gerechtshof Den Haag) (2018), Case no. 22-000019-18, 31 October 2018, ECLI:NL:GHDHA:2018:3135,vhttps://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2018:... The Netherlands, Supreme Court (Hoge Raad) (2020), Case no. 19/02742, 17 March 2020, ECLI:NL:HR:2020:381, available at: https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:381

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