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	2020	Sweden / Gothenburg District Court (Göteborgs Tingsrätt) / Case number: B 12803-18	https://www.domstol.se/nyheter/2020/02/tingsratten-frikanner-f.d.-ordforande-for-goteborgs-kommunstyrelse-fran-grovt-fortal/	Religion	Göteborgs Tingsrätt (Gothenburg's District Court)	The District Court of Gothenburg acquitted a municipal politician prosecuted for grave defamation of two women who have been activists for Muslims' rights. The prosecution of the politician referred to six posts published on the politician's blog. In the blog posts, the politican had called the women things like "extremists" and "non-democrats".For a statement to be defined as defamation it is required that it can be given a specific content that can be tried against real circumstances. The District Court assessed that none of the politician's statements, e.g. "extremists", "extreme voices", "favorite extremists" and "non-democrats" can be defined as expressions with such specific content. Furthermore, the District Court does not think that the parable the politician made between the women and fascists and Nazis could be considered to be defamation. The two injured parties shall together pay the politician's legal costs, a total of 190,000 SEK (€18,450). The injured parties have appealed the verdict to the Court of Appeal (Hovrätten)	The prosecution was dismissed and consequently the injured parties were not entitled to any damages. Instead, the injured parties shall compensate the politician for her legal costs, with 190,000 SEK (€18,450).	The District Court found that some of the statements in the blog to be a foundation for defamation (förtalsgrundande). However, the second section of the defamation provision (Criminal Code, chapter 5, section 1) includes a discharge rule which means that it may be justifiable to provide information of a defaming character in certain situations. Here a balance must be struck between, on the one hand, the protection against defaming statements and, on the other hand, the extensive freedom of expression that constitutes the basis for a democratic state of society. The Court points out that it is particularly important that there is space for political debate and that social and cultural issues can be discussed even if individual persons are attacked to some extent. Consequently, statements that may be perceived as personal attacks should be permitted as long as the border for libel is not crossed. The Court found it important to consider that the injured parties repeatedly have appeared in the public eye as spokespersons for Muslims in Sweden, with the explicit aim of forming opinion for their interests. Of relevance for the court was the fact that the both the injured parties had made themselves spokespersons for a certain group and participated in the public debate, wherein they have labelled the anti-terror legislation as "race laws" directed towards Muslims. The District Court argued that the injured parties in their roles as public figures must accept that they may be exposed to verbal attacks by their antagonists. With reference to the widespread constitutionally protected freedom of expression, the District Court found that the politician's statements were justifiable. Consequently, the action was dismissed in its entirety.	The case clarified what types of statements that may be considered to be defaming (förtalsgrundande). Furthermore, it established that in the context of political and cultural debate, the freedom of expression must be considered paramount, even when individual persons are verbally attacked. Statements that may be perceived as personal attacks are thus allowed as long as they cannot be classified as defamation in the strict legal sense.	"A-S.H:s uttalanden om målsägandena har initierats av den uppmärksamhet och de meningsyttringar som följde på beslutet att ställa in föreställningen med panelsamtalet. Hon var vid den tiden kommunstyrelsens ordförande. Denna omständighet är dock inget som i sig begränsar A-S.H:s grundlagsskyddade rättighet att ge uttryck för sin personliga åsikt. Att det inom kommunfullmäktige, A-S.H:s eget parti eller hos andra aktörer kan finnas invändningar som handlar om att på bloggen redovisade åsikter kan uppfattas som inte enbart A-S.H:s egna, saknar betydelse för frågan om försvarlighet. De uppgifter som A-S.H lämnat har skett inom ramen för den vidsträckta yttrandefrihet som utgör en av grundvalarna för ett demokratiskt samhällsskick. Vid en intresseavvägning gentemot målsägandenas intresse att inte utsättas för nedsättande uppgifter ska målsägandens intresse tillbaka till förmån för yttrandefriheten." "A-S.H's statements about the injured parties were initiated by the attention and the expression of opinions that followed the decision to cancel the film event with the panel discussion. She was at the time the chairperson of the municipal executive board. However, this factor does not limit A-S,H's constitutional right to express her personal opinions. That persons within the municipal executive board, A-S.H's own party or other actors may have objections concerning the fact that A-S.H's opinions declared on her blog may not be perceived as just her personal opinion, is irrelevant in relation to the question of justifiability. The statements that A-S.H have made were within the framework of the widespread freedom of expression, which constitutes one of the cornerstones of a democratic society. When balancing this interest with the interests of the injured parties to not be exposed to derogatory statements, their interests must stand back for the benefit of the freedom of expression."

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