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

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Sweden	2020	Sweden / Court of Appeal for Western Sweden (Hovrätten för Västra Sverige)/ Case number: B 1055-20		Racial or ethnic origin	Court of Appeal for Western Sweden (Hovrätten för Västra Sverige)	The defendant appealed the District Court's sentence. The defendant was found guilty of agitation against an ethnic or national group. In a Facebook group, she wrote and disseminated a derogatory message about a group of persons with immigrant background, which consequently referred to their national and ethnic background. The original post focused on a 27-year man with foreign background that allegedly had punched an 86-year older man and was suspected of aggravated assault. The defendent's message was a comment to the post in question. The message reads: "It would be better to send him out of the country, what kind of ape people are entering the country. Expulsion is the only way. There are no mitigating circumstances, such as war. The apes should not come here and commit such crimes. Enough with this immigrant ape people who have no respect at all for human beings. Out with wretchedness (the persons in focus) at once." The comment was made in a closed Facebook webpage with many members and was further disseminated as the post was shared and commented/liked a significant number of times. The incident occurred up until 13 March 2017 at an unknown location in Sweden. The defendant's statement was posted as a comment on a publication in a Facebook-group. The defendant was found guilty of agitation against an ethnic or national group. The Court of Appeal did not change District Court's sentence, but the day fine amount was slightly decreased from 650 SEK (€62.80) for 40 days to 500 SEK (€48.30) per day.	The defendant was given a conditional sentence combined with a day fine for 40 days á 500 SEK (€ 48.30). Thus, the Court of Appeal decreased the amount from 650 (€ 62.80), since the defendant declared that her income was lower than it was in the District Court trial.	The Court of Appeal found that the dissemination of the defendent's message was of the extent required in the legislation on agitation against an ethnic or national group. The message cannot be interpreted in another way than that it addresses a group of persons who are protected by the provision – immigrants. By calling this group "apes" and "ape persons", the defendant has expressed herself in a way that must be considered derogatory. The penal provision is based on balancing the freedom of speech and the protection of vulnerable groups. According to the court, any assessment of a message's possible criminal content must be made with this balancing in mind. In the overall assessment, the District Court found that the statement widely exceeds the boundary for an objective and reliable discussion regarding the group in question.	The case clarifies that calling a group of immigrants" apes" or" ape persons" in a Facebook group with many members is protected by the freedom of speech when balanced against the need to protect vulnerable groups. Whether the statement is derogatory to a criminal degree must be defined based on an overall assessment of the situation. An overall assessment must consider the statement's content and purpose, the persons to which it was directed, and in which context. According to the Swedish constitution and the European Convention of Rights, statements that form part of political debates must be balanced against the freedom of speech. The defendant's comments were written in a post with some political aspects, but based on other comments on the post, and their context, the court stated that the case did not concern any political debate. Additionally, ithe court found the defendant's statement to be generalising and offensive in an unmotivated way.	"I-G.A's message was published as a comment to an article about the physical abuse, and undoubtedly partly political ingredients. Several other persons have also commented on the article. Judging by the comments that have been accounted for, and the context in which these comments have been published, it can, however, not be considered a political debate on the topic. Neither do the comments open up for such a debate. Upon an overall assessment, I-G.A's message also appears to be generalising and offensively formulated in an unmotivated way. In an overall assessment, the District Court finds that the message has far exceeded the limit for a factual and valid discussion concerning the group in question. I-G.A.'s statements have not changed this assessment; rather it supports the view that the purpose was to disseminate a message disrespecting the group. Against this background and the extensive dissemination, the act cannot be considered to be minor."

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