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 / Svea Court of Appeal (Svea Hovrätt)/ Case number: B 8211-19		Religion	Svea Court of Appeal (Svea Hovrätt)	The prosecutor appealed the District Court's sentence. The defendant had published derogatory statements about the group Muslims, referring to their religious belief. The statements were in the form of posts related to an article about a person murdered by a knife at an asylum accommodation centre. The article in question was linked to the political party Sweden Democrats' Facebook page. The Facebook page is open to the public, and the defendant's statements have been widely disseminated. The defendant wrote the comments while he was residing abroad. However, since the comments were written in Swedish on the Swedish parliament party's website, which was mainly spread to people in Sweden and the immediate effects of the act had occurred in Sweden, the crime may be considered to be committed in Sweden, at least partly. The court argued that the defendant committed the act with intent. He wrote: "Let them kill each other! Just throw them a sack of knives. Lock the doors from the outside, and in the morning, you can walk in and count the dead. Clean up a little and fetch some new Muslims, together with a sack of knives. A slightly burned Koran can also be left there". When someone else commented on the comment's content and said that this did not sound very safe, the defendant answered: "Maybe not? But a very efficient way to solve the problem. Body bags are the only costs."	The prosecutor appealed the District Court's decision to dismiss the case. Even if the District Court found the defendant guilty of agitation against an ethnic or national group, the court only found considered it a minor felony. As such, the case was statute-barred by February 2018, before the prosecution was submitted to the court. Consequently, the case was dismissed, and the defendant was free of charges. The Court of Appeal did not share the District Court's view of the crime's seriousness, meaning that it did not consider it to be statute-barred. The court found the defendant guilty of agitation against an ethnic or national group and sentenced him to a conditional sentence combined with a day fine of 190 SEK (€18) per day.	The defendant says that he cannot remember whether he wrote the comments or not, but if so, he did not intend to insult any group. Instead, he referred to his Finnish and dark sense of humour. According to the District Court, the comments objectively express contempt for Muslims, since they mean that it would be possible if many Muslims died. According to the District Court's assessment, the defendant's objection referring to the incident a joke seems like a post-construction that cannot be considered. Consequently, he must be considered to have had intended to scorn Muslims. The statements were published on a public webpage and have been disseminated to the degree required for it to be considered agitation against an ethnic or national group. While statements that form part of a political debate must be considered in the light of the constitutionally protected freedom of speech, the defendant has not claimed that his statements were of such character. The District Court finds that even if the defendant had wished to convey a message protected by the freedom of speech, he could have achieved this without using phrases or statements that are derogatory for the group Muslims.	The case clarifies that in order to consider a message that is classified as agitation against an ethnic or national group to be spread, it is enough that it has been made available for a large group of persons. While the District Court focused on the potential spread of the defendant's comment, it found that the defendant's comment had only been "liked" by four persons, and only been answered by one person. Even if more persons likely took part of the comments content, the District Court did not find it proved that they had become widespread, even if they were posted on a public Facebook page. The offense was classified as minor. The Court of Appeal however found that spreading of a written message does not presuppose that a certain larger group took part of the message. To consider the message to be spread, it is enough that it has been made available for such a group. The defendant wrote the comments on the Sweden Democrat's public Facebook page and around 140,000 persons liked or followed the page. The comments are thus available for a large group of persons. The comments were insulting and reprehensible. The acts should therefore be classified as agitation against an ethnic or national group of the normal grade.	"Hovrätten delar även tingsrättens bedömning att kommentarerna ger uttryck för missaktning för muslimer och att kommentarerna, som skrevs på en offentlig hemsida, har spritts på det sätt som avses i bestämmelsen om hets mot folkgrupp. När det gäller rubriceringen av gärningen gör hovrätten följande bedömning. Spridning av ett skriftligt meddelande förutsätter inte att en viss större grupp faktiskt tagit del av meddelandet. För att meddelandet ska anses spritt är det i princip tillräckligt att det gjorts tillgängligt för en sådan grupp (se NJA 1999 s. 702). T.E skrev de för åtalet aktuella kommentarerna på Sverigedemokraternas offentliga Facebook-sida. Drygt 140 000 personer gillade eller följde själva hemsidan. Kommentarerna har alltså gjorts tillgängliga för en stor grupp människor. Kommentarerna har varit kränkande och klandervärda. Gärningen bör därför rubriceras som hets mot folkgrupp av normalgraden." "The Court of Appeal agrees with the District Court's assessment that the comments express contempt for Muslims and that the comments, written on a public webpage, have been disseminated in the manner referred to in the provision on agitation against an ethnic or national group. Concerning the classification of the act, the Court of Appeal makes the following assessment. The dissemination of a written message does not presuppose that a specified larger group has seen it. For the message to be considered disseminated, it is, in principle, sufficient that it has been made available to such a group. T.E wrote the comments in question on the Sweden Democrat's public Facebook page. Just over 140,000 persons liked or followed the web page. Consequently, the comments have been made available for a large group of persons. The comments are insulting and reprehensible. 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