

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
Czechia	2022	Czech Republic / Constitutional Court / ECLI:CZ:US:2022:2.US.2120.21.1	https://malus.usoud.cz/Search/ResultDetail.aspx?id=1215006pos=1&cnt=5&typ=result	Religion	Constitutional Court (Ústavní soud)	The case concerns a theatre play depicting the rape of a Muslim woman by Jesus Christ and the performance of oral sex on a statue of Pope John Paul II. The complainants, previously plaintiffs before a civil court, sought protection of their rights by asking for an apology from the authors of the play as they felt negatively affected by the artistic expression.	The Constitutional Court did not find a violation of the complainant's rights through the decisions of the lower courts. The lower courts applied a three-stage test for the admissibility of restrictions on freedom of expression (first, the lawfulness of the interference, second, its legitimate aim, third, the necessity of the interference in a democratic society). By applying the test, the lower courts concluded that there was in fact no violation of the complainants' rights as they were not personally affected by the artistic expression.	The complainants claim that the showing of the two plays interfered, albeit not directly or in the complainants' physical presence, with the complainants' human dignity and religious freedom. The complainants are asking the Court to decide on two points: who has the right to defend the honour and reputation of Jesus Christ and John Paul II as representatives of the faith practised by the complainants, and who has the right to insult and ridicule the faith, and where the limits of the freedom of artistic creation lie.	Freedom of thought, conscience and religion shall prevail over freedom of expression. According to the complainants, it is clear from the ECtHR's case law that the right to freedom of expression and thought, conscience and religion conflict when considering blasphemous speech. The conflict requires a proportionality test, but the complainants allege that general courts have distorted that test by misidentifying those fundamental rights. The Constitutional Court stated that the complainants undertook the difficult task of 'transferring' the tort of blasphemy (unregulated by criminal law) to the level of a civil tort. They did not claim to have been directly affected by the scenes described in the two plays, but alleged an interference with their religious feelings and those of other believing Christians.	"92. (...) obě hry sledovaly legitimní cíl, směřující k vyvolání veřejné diskuse o náboženském násilí a sexuálních incidentech uvnitř jedné z církví. Učinily tak prostředky sice zčásti blasfemickými, ve svém celku však nepotlačujícími základní sdělení." 92. (...) both plays pursued a legitimate aim, aimed at provoking public discussion about religious violence and sexual incidents within one of the churches. They did so by means which, although partly blasphemous, did not, on the whole, suppress the underlying message.

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