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
Poland	2021	Poland / Court of Appeal of Warsaw / Judgement of 14 January 2021, case no. II AKa 104/20	http://orzeczenia.ms.gov.pl/content/$N/154500000001006_II_AKa_000104_2020_Uz_2021-01-14_002	Nationality	Appeal Court of Warsaw (Sąd Apelacyjny w Warszawie)	The defendant was accused of having insulted publicly his Chechen neighbour, several times, due to her national and religious affiliation, and consequently was sentenced by the first instance court. He filed an appeal against the judgement, claiming (among others) that - since the act had taken place in backyard of the house - the insult was not made publicly.	The court has upheld the majority of the convicting first instance judgement. The judgement is final.	The court of appeal shared the view of the first instance court as regards the racist and offensive character of the defendant's statements directed at the victim (e.g. expressing regret that Russians did not kill all Chechens, calling her a terrorist, refusing her right to live in Poland). The court of appeal emphasised that, contrary to the defendant's argumentation, the insults were made publicly, which is one of the features of the crime described under Article 257 of the Criminal Code.	As clarified by the court, the gate and courtyard, where the events took place, is located nearby a busy street, where a lot of people move. The gate and the building where the victim and the defendant live are a multi-family building and very extensive. The gate dividing the pavement from the entrance space does not make this place a non-public enclave. The fact that the gate was locked and only those with an access code had access to it does not prove that the person uttering the insulting content was not acting in public.	"Działanie publiczne może być podejmowane w przeróżny sposób, poprzez nie tylko wypowiedzi na wiecu, wśród publiczności, ale także w środkach masowego przekazu, czy w ruchliwym miejscu. W kontekście ustalania znamienia czynu z art. 257 k.k. samo miejsce zdarzenia jest ustaleniem drugorzędnym o tyle, że działanie publiczne to sposób zachowania sprawcy skierowany wobec bliżej nieoznaczonego kręgu odbiorców. Działanie takie nie musi być podejmowane w miejscu publicznym, gdyż działanie publiczne i działanie w miejscu publicznym nie są pojęciami tożsamymi. To zdarzenie, czynności podjęte przez sprawcę determinują ustalenie działania publicznego, a nie samo miejsce podjęcia przez niego penalizowanych zachowań. Działanie publiczne ma bowiem szerszy zakres pojęciowy, aniżeli działanie w miejscu publicznym." "Public action can be undertaken in various ways, not only by speaking at a rally, among the public, but also in the media or in a busy place. In the context of determining the characteristic of an act under Article 257 of the Criminal Code, the place of the event itself is a secondary determination, insofar as public action is a manner of behaviour of the perpetrator directed towards an unspecified public. Such action does not have to be undertaken in a public place, as public action and action in a public place are not identical concepts. It is the event, the actions undertaken by the perpetrator that determine the public action and not the place where the perpetrator undertakes the criminalised behaviour. Indeed, public action has a broader conceptual scope than action in a public place."

DISCLAIMER The information presented here is collected under contract by the FRA's research

network FRANET. The information and views contained do not necessarily reflect the views or the official position of the FRA.

http://fra.europa.eu/en/databases/anti-muslim-hatred/

Copyright © 2025 European Union Agency for Fundamental Rights