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
North Macedonia	2021	North Macedonia / Court of First Instance (Основен граѓански суд Скопје) / XII П5 22/29		Religion	Court of First Instance (Основен граѓански суд Скопје)	This case is based on a journalistic campaign by two media outlets, Kurir and Lider, which painted the activist Mersiha Smailović with a caricature of Hitler surrounded by a swastika, attempting to suggest antisemitic behaviour. This incited a spread of hate speech and Islamophobia towards Smailović on social media. Due to the non-responsiveness of the Public Prosecutor's office in cases of hate speech, Smailović, like other activists in similar circumstances, opted for filing a civil lawsuit for defamation and insult.	The court declared the two media outlets were guilty of defamation and insult, asking them to publicly apologise and admit their guilt in their media, as well as to pay a maximum fine of 100,000 MKD (1,626 EUR). The verdict was not appealed, the defendants paid the fine that was imposed on them.	The court's decision was based on: (1) confession of the editor of the newspaper Kurir, that they deliberately started the campaign in order to scare Mersiha Smailović from engaging in political life in North Macedonia. (2) Smailović's testimony about the numerous threats to her life that she received on social media, about being followed by unknown persons, after which she reported to police that she was afraid for her safety. The court did not address in its reasoning the defaming/insulting dimension of the caricatures, but focused on the deliberate nature of the action to knowlingly spread false information.	This case is important because it shows that, no matter the seriousness of the crime, activists are often forced to seek justice by themselves in a civil procedure due to the inertness of the Public Prosecutor's Office in hate speech cases. The court failed to engage with the particular nature of the motivation of the offense, which was that it was conducted for the purpose of deterring a Muslim woman wearing a visible Muslim headscarf from engaging in public life.	Основен граѓански Суд, Скопје, Пресуда бр. XX-П5-22, датум на правосилност: 20.10.2021, првостепен парничен суд преку судијата Дијана Навевска, постапувајќи по правната работа на тужителката Мерсиха Смаиловиќ од Скопје, против тужените: ДПФТв програма Џенерал Хералдинг ДООЕЛ и ДТУ Ем Медиа ДОО Скопје, на ден 05.05.2021 ја донесе и јавно објави следната пресуда, страна 3, параграф 2:....„Во контекст и корелација со наведеното, судот утврди дека од страна на тужените, Џенерал Хералдинг и Ем Медиа ДОО Скопје, со намера да се наштети на честа и угледот на тужителката, пред трето лице изнеле и произнеле невистините факти, што се штетни за честа и угледот на тужителката, а знаеле и можеле да знаат дека се невистинити. Согласно член 4 став 2, член 6 став 4, член 8 став 1 и став 4, од Законот за граѓанска одговорност и клевета.“ Basic Civil Court, Skopje, Judgment no. XX-P5-22, date of validity: 20.10.2021, first instance civil court through judge Dijana Navevska, acting on the legal work of the plaintiff Mersiha Smailović from Skopje, against the defendants: DPF Tv program General Heralding DOOEL and DTU Em Media DOO Skopje, on 05.05.2021 passed and publicly announced the following judgment, page 3, paragraph 2: .... “In the context and correlation with the above, the court found that the defendants, General Heralding and Em Media DOO Skopje, with the intention of harming the honor and reputation of the plaintiff, presented and pronounced false facts before a third party, which are harmful to the honor and the plaintiff's reputation, and they knew and could have known that they were untrue. According to the Article 4 paragraph 2, Article 6 paragraph 4, Article 8 paragraph 1 and paragraph 4, of the Law on Civil Liability and Defamation."

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