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
Sweden	2023	Sweden/ Supreme Court /Målnummer B 2501-22	https://www.domstol.se/hogsta-domstolen/avgoranden/	Racial or ethnic origin	Supreme Court (Högsta Domstolen)	The case concerns agitation against a population group. The defendant (B.M.) was prosecuted for agitation against a population group due to a statement he made as a member of a Regional Council during a council session. In his speech, B.M. addressed unemployment in the region, which he claimed was affected by the Migration Agency's decision to accept quota refugees from South Sudan. B.M. alleged that people from South Sudan were among the ethnic groups with the lowest intelligence in the world. The chair of the Council interrupted B.M. during his speech. The District Court convicted B.M. of agitation against a population group and the Court of Appeal upheld the judgment. B.M. appealed to the Supreme Court, which reversed the Court of Appeal's judgment and acquitted B.M. of the charge of agitation against a population group.	The Supreme Court reversed the Court of Appeal's judgment and acquitted B.M. of the charge of agitation against a population group. The Supreme Court also relieved B.M. of the obligation to pay the fee under the Crime Victim Fund Act and the obligation to reimburse the costs of the public defender in the District Court and the Court of Appeal. It should be noted that the case is not directly linked with Muslims or persons associated with Muslims, however the decision is relevant for the interpretation of the legal provision on agitation against a population group under chapter 16, section 8 of the Criminal Code.	The Supreme Court held that a derogatory statement made within the framework of a debate in a political assembly was not deemed to entail criminal liability as agitation against a population group under chapter 16, section 8 of the Criminal Code. The Supreme Court found that the statement constituted a categorical characterisation of an entire population group, conveying a message that members of the group—people from South Sudan—are less intelligent than others, which was deemed clearly derogatory toward the group. However, the Court took into account the context in which the statement was made, namely, by a member of the Regional Council during a discussion about unemployment. B.M. stated that by "intelligence," he meant the concept of the "Human Development Index". According to the Court, this argument was supported by the script he submitted in the case. The Court therefore concluded that the statement—despite being derogatory toward the identified group—did not exceed what must be tolerated within the framework of debate in a political assembly.	The case concerns the conditions for criminal liability for agitation against a population group regarding a statement made by a member of a political assembly during a meeting. It should be noted that the case is not directly linked with Muslims or persons associated with Muslims, however the decision is relevant for the interpretation of the legal provision on agitation against a population group under chapter 16, section 8 of the Criminal Code. The case summarises the applicable law regarding whether derogatory statements made within the framework of a political discussion can be considered agitation against a population group. The case also examines the protection of freedom of expression in chapter 2, section 1 of the Swedish Constitution and Article 10 of the European Convention on Human Rights and related case law.	“Vid bedömningen av om uttalandet har utgjort ett uttryck för missaktning som ska medföra straffansvar måste dock hänsyn tas till sammanhanget. BM gjorde uttalandet som ledamot i regionfullmäktige i samband med att diskussionen hade det övergripande ämnet arbetslöshet. Han har uppgett att han ville ge uttryck för att personer från Sydsudan har svårt att få arbete i Sverige och att de bättre kan hjälpas på andra sätt än genom att de kommer hit. Vidare har han uppgett att han med uttrycket ”intelligens” avsåg begreppet ”Human Development Index”, vilket FN använder för att mäta välstånd utifrån olika faktorer. Att detta var BMs avsikt får stöd av det manus som han har gett in i målet. Mot denna bakgrund har uttalandet – trots att det var nedsättande för den utpekade gruppen – inte gått utöver vad som måste godtas inom ramen för en debatt i en politisk församling.” “When assessing whether the statement constituted an expression of contempt warranting criminal liability, the context must be taken into account. B.M. made the statement as a member of the Regional Council during a discussion with the overarching topic of unemployment. He stated that he intended to express that individuals from South Sudan face difficulties finding work in Sweden and that they could be better assisted through other means than by coming here. Furthermore, he stated that by the term 'intelligence,' he referred to the concept of the 'Human Development Index,' which the UN uses to measure prosperity based on various factors. This interpretation of B.M.'s intent is supported by the script he submitted in the case. Against this background, the statement—despite being derogatory toward the identified group—did not exceed what must be tolerated within the framework of a debate in a political assembly."

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