

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
Slovenia	2024	Slovenia / Supreme Court / Judgment 1 of 31726/2021 (2015)VS55-20241 (S-31726-2021)	https://odlozapraksa.si/?q=id/2011081111479326&database/SOVS1=SOVS&database/ESP1=ESP&database/VOS1=VOS&database/UPRS1=UPRS&_submit=16/2%6A1%6C4%8D&page-id/id=2011081111479326		Religion, Migrant status, Racial or ethnic origin	Supreme Court (Vrhovno sodišče)	The case concerns an article, labelled satirical, which was published in a weekly magazine. Lower courts sentenced the article's author and the responsible magazine's editor under Article 297 of the Criminal Code prohibiting public incitement to hatred, violence and intolerance. Amongst others, the author wrote in the article that (i) immigrants from other races are said to have more radium in them and that it is enough to create a microorganism that will attack only immigrants due to the radium content; (i) God will create such a microorganism that will not tolerate the DNA of immigrants and migrants will get sick and die; (i) it is possible to create a virus that will make only certain people, races and groups of people with certain characteristics sick; (i) it is a targeted elimination. In fact in the same way that people target certain types of natural pests, mofs, snakes; (i) God can also targeted elimination) target a certain type of harmful people; (i) the white race is unable to defend itself against the onslaught of certain races, so God will create a virus that will save the most advanced race from destruction; (i) it is not about racism, but about cleaning, removing weeds, which is necessary for a good harvest; (i) a large part of the white race will also be exterminated, since it is not about people, but about spiritually advanced souls, and about 350 million people will remain for the Golden Age; (i) the vast majority of good souls come from the white race, as this race was given Christianity and thus the possibility of spiritual progress; (i) Jesus was white, not black, not yellow. One of the defendants, the editor, challenged the lower courts' judgments before the Supreme Court.	The Supreme Court of Slovenia upheld the conviction of the defendant for public incitement to hatred, violence, or intolerance under Article 297 of the Criminal Code. As a result, the defendant remained subject to their original sentence of six months of imprisonment, with a two-year probation period. (The lower courts sentenced the other defendant to five months of imprisonment, with the same probation period.) This decision is significant for several reasons. It was issued in a hate speech case—an area of law where cases rarely reach the courts, let alone the Supreme Court. Moreover, the Supreme Court classified this ruling as one of its more important decisions, underscoring the significance of its interpretation of the case for future instances involving speech that incites hatred against immigrant groups through narratives of racial supremacy and/or supremacy of Christianity over other religion. The ruling also clarified that spreading hatred under the guise of satire, artistic expression, or freedom of speech—particularly in the media—should not be tolerated.	The Supreme Court found that the statements advanced in the article constituted clear and public advocacy of racial superiority and approval of genocide, thus meeting the legal definition of the criminal offence under Article 297 of the Criminal Code. It held that such expression is excluded from constitutional protection under Article 39 (freedom of expression) due to the prohibition of incitement to discrimination and intolerance laid down in Article 63 of the Constitution. It dismissed arguments that the statements were satirical or artistic, stressing that stylistic presentation does not legitimise speech advocating hatred.	The Supreme Court observed whether the discourse published in the magazine, which expressed hatred against immigrants and invoked racial supremacy and supremacy of Christianity over other religions, enjoyed protection under provisions guaranteeing the right to freedom of expression under Article 39 of the Constitution of the Republic of Slovenia and Article 10 of the ECtHR, or if it was excluded from such protection and punishable under the relevant provisions of the Criminal Code implementing Article 63 of the Constitution which prohibits incitement to discrimination and intolerance.	"16. Vrhovno sodišče pritrjuje presoji nižjih sodišč, da vsotna izjava predstavlja javno in javno širjenje ideje o večvrstnosti ene (belle) rase nad drugo in o odobrevanju genocida, torej so izpolnjeni zakonski znaki kaznivoga dejanja iz drugega odstavka 297. Člena KZ-1. Tema zaključku vodi že sama vendarle besedilo, citirana v opisu kaznivoga dejanja, pri čemer je javno širjenje ideje o večvrstnosti bele rase moč zaznati v celotnem besedilu, v zvezi s "močrosti ustvarjanja virusa, zaradi katerega zbolevalo le določene ljudje, rase in skupine ljudi določenih lastnosti [...] in v človek eliminacije določene vrste škodljivih ljudi", pa je javno mogoče prepoznati tudi odobrevanje genocida. Poleg tega je Vrhovno sodišče pri presoji še opredelilo, da v predmetni zadevi ni šlo za politični govor in tudi ne za konstruktiven prispevek k javni razpravi o neki temi v javnem interesu, pač pa za govti uporabi žalitev z namenom javnega širjenja ideje o večvrstnosti ene rase nad drugo ter odobrevanja genocida, dejanje pa je bilo storjeno zoper tujino ali pripadnike drugih ras. Ker celotna sporna izjava predstavlja spodbujanje k rasni neenakopravnosti in razpolaganju rase neustrojni, je torej v zvezi s nasprotju tudi s 63. členom Ustave. Navedeno pomeni, da je sporna izjava, če jo sami razdri, prepovedana na podlagi 63. člena Ustave in drugega odstavka 297. člena KZ-1 ter zato ne uživa varstva iz 39. člena Ustave." "16. The Supreme Court agrees with the assessment of the lower courts that the disputed statement constitutes a clear incitement to discrimination of the idea of the superiority of one (white) race over another and the approval of genocide, and therefore forms part of the elements of the criminal offence from the second paragraph of Article 297 of the Criminal Code (KZ-1). The very content of the text itself leads to this conclusion, as cited in the description of the criminal offence, whereby the public dissemination of the idea of the superiority of the white race is evident throughout the text. Furthermore, in the reference to 'the possibility of one race over another and approving genocide, and that the act was committed against a vulnerable group (migrants, namely immigrants or members of other races). Since the entire disputed statement constitutes an incitement to racial inequality and the fomenting of racial intolerance, it is in direct contradiction with Article 63 of the Constitution. This means that the disputed statement, by its very content, is prohibited under Article 63 of the Constitution and the second paragraph of Article 297 of the Criminal Code (KZ-1) and, as such, does not enjoy protection under Article 39 of the Constitution."

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