

Cases and rulings

This section covers significant international, European and national case law and decisions. It also covers findings issued by UN human rights bodies and national human rights bodies relating to anti-Muslim hatred incidents, such as violence, property offences, incitement to violence or hatred, other forms of hate speech, discrimination, harassment.

Filter the database by:

COUNTRY :

Italy

YEAR(S) :

2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020

HATE BIAS MOTIVATION :

Ethnic origin, Race, Religion, Nationality, Gender, Migrant status

COURT / BODY TYPE :

UN Human Rights Committee, UN CERD Committee, European Court of Human Rights, National Higher Court, National Court, Equality Body, Ombudsman, High regulatory authority, National Human Rights Body

CRIME TYPE(S) :

Homicide, Physical violence, Arson, Vandalism, Property offence, Threat of violence, Incitement to violence or hatred, Other forms of hate speech, Discrimination, Harassment

MS	Year	Reference details title	Reference details URL	Hate Bias	Court / Body	Key facts	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Results (sanctions, outcome) and key consequences or implications of the case	Key quotation in original language and translated into English with reference details
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Italy	2020	Italy/Tuscany Regional Administrative Court (TAR Toscana), N. 00663/2020	https://magazine.cisp.unipi.it/wp-conte...	Religion	Tuscany Regional Administrative Court (Tribunale Amministrativo Regionale per la Toscana)	The Islamic Cultural Association of Pisa filed a complaint before the Tuscany Regional Administrative Court asking to annul the Pisa City Council's resolution No. 38 of 10 September 2019, which denied permission to build in the concerned area - where currently a car parks is located - a mosque and the cultural centre of the Islamic community, which had long since purchased the land. The municipal administration - led by the right-wing political party "League" - had decided to use that area to build the city stadium.	The Administrative Court accepted the complaint filed by the Islamic Cultural Association and annulled the City Council's resolution. According to the Court, the City Council resolution did not into account that the Association has an interest in the construction of a place of worship, the only one in the Municipality of Pisa intended to meet the needs of those who practise the Islamic religion. It further stressed that this interest is a fundamental right protected by the Italian Constitution, the EU Charter of Fundamental Rights and by the European Convention of Human Rights.	Local municipalities are in charge of deciding how to use the municipal territory, finding an appropriate balance between different public and private interests, e.g., the protection of the environment and biodiversity, economic activities, housing, etc. The interest of the local Muslim community to have a place of workshop - which does not currently exist in the municipality of Pisa - must be included and adequately considered in this balance, as it is strongly protected and guaranteed by both the Italian Constitutio and by binding EU and international law.	The complaint filed by the Islamic Cultural Association was accepted; the Association is therefore authorised to start the construction of the Mosque and of the cultural centre.	"l'associazione ricorrente è portatrice dell'interesse alla realizzazione di un edificio di culto [...] Si tratta di un interesse particolare in quanto espressamente considerato dall'art. 8 della Costituzione, e riguardante la pratica di una delle religioni più diffuse al mondo, negli ultimi decenni ampiamente praticata anche in Italia. [...] la ricorrente intende soddisfare il diritto alla libertà di culto, diritto fondamentale dell'individuo tutelato dalla Costituzione. È appena poi il caso di richiamare l'Art. 10 della Carta dei diritti fondamentali dell'Unione europea [...]" ("The applicant association has an interest in the construction of a place of worship [...] . It is a special interest in so far as it is expressly referred to in Article 8 of the Constitution and concerns the practice of one of the most widespread religions in the world, which has been widely practised in recent decades in Italy as well. [...] the applicant intends to satisfy the right to freedom of religion, a fundamental right of the individual protected by the Constitution. It is hardly appropriate to recall Article 10 of the Charter of Fundamental Rights of the European Union [...].")

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Italy	2017	Italy / Ordinary Court of Milan - 7th Criminal Section/Decision of 18 December 2017	http://www.penalecontemporaneo.it/uploa...	Religion	Ordinary Court of Milan - 7th Criminal Section (Tribunale Ordinario di Milano - Sezione 7° Penale)	After the Paris terrorist attack of 13 November 2015, the Italian newspaper "Libero" issued an article - on its front page - titled "Islamic bastards". Many associations filed complaints against this title but the Court accepted only the CAIM (Coordination of Islamic Associations of Milan, Monza and Brianza) as party in the proceeding. The Public Prosecutor asked the Court to condemn the newspaper - and its director - for the criminal offence of vilification of a religious belief (art. 403 of the Italian Criminal Code) with the aggravation of incitement to racial hatred (art. 3.1 of Law No. 205/1993), asking also for a financial compensation of EUR 8,300.	The Court dismissed the case and acquitted the perpetrator. According to the judicial authorities, the considered title used a strong and derogatory language: the word "bastard" is extremely offensive and results in a strong emotional impact in the reader. Despite the argumentation of the defendant - according to which the word "Islamic" is to be considered as an adjective referring to the noun "bastard" which, in its turn, exclusively refers to the authors of the terrorist attack - the members of the Muslim community could easily interpret the title as referring to all Muslims. However, as far as art. 403 of the Criminal Code is concerned, the criminal offence it governs is perpetrated when a specific person (or group of persons) is outraged and attacked and if this specific person (or group of persons) is practicing the religion or can represent it (as it would be the case of an Imam, for instance). Since the title - despite the use of a reprehensible expression - does not refer to a religious minister or to a specific subject practicing the religion, it cannot be considered as a vilification of a religious faith.	With this decision, the Court clarified the criminal offence of vilification of religion, as ruled by art. 403 of the Italian Criminal Code. This kind of offence is perpetrated only when a specific subject - clearly representing or practicing the considered religion - is outraged and attacked. According to the Court, this was not the case of the article's title considered in this proceeding. Consequently, in this kind of hate speech cases, it might be preferable to refer to the discriminatory grounds of the incident and, therefore, pointing out a violation of the Law No. 205 of 25 June 1993 on "Urgent measures to contrast racial, ethnic and religious discriminations".	The perpetrator was acquitted.	"La fattispecie di reato è integrata, dunque, solo se l'offesa sia diretta a una persona che professa la religione o un ministro di culto e attraverso la condotta offensiva sia stato offeso il sentimento religioso della collettività dei fedeli. Espresso in altri termini il concetto, il vilipendio alla religione deve transitare attraverso l'offesa del singolo individuo che diviene oggetto di tale condotta mentre non vi è vilipendio se l'offesa è rivolta alla moltitudine indifferenziata dei credenti. Ed è su questa considerazione che l'imputato va mandato assolto perché il fatto non sussiste: egli pur utilizzando espressioni non condivisibili per il connotato intrinsecamente spregiativo delle stesse e per l'ambigua attribuzione dei termini, non ha commesso vilipendio della religione perché non ha diretto la sua azione a un ministro di culto o al singolo individuo che la professa" "The considered criminal offence is perpetrated only if the offense is addressed to a person practicing the religion or to a faith minister, and if through the offensive conduct also the religious sentiment of the worshippers' community is offended. In other words, vilification of religion must be based on the offense directed towards the specific subject who thus becomes object of the conduct. It is not vilification if the offense is directed towards the general community of worshippers. This being said, the defendant must be acquitted because the case does not subsist: even if the title he used is considered reprehensible because of its derogatory connotation and the ambiguous allocation of the words, he did not perpetrate vilification of the religion because he did not address its action to a faith minister or to a subject practicing the religion"

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Italy	2015	Italy / Court of Cassation / Decision no. 36906	http://www.asgi.it/wp-content/uploads/2...	Race/Ethnicity, Religion	Italian Court of Cassation (Corte di Cassazione)	The Court of Appeal of Trieste stated that the complainant's electoral propaganda was to be considered a dissemination of racist and discriminatory ideas and convicted him for the criminal offences of 13 October 1975. A candidate for the 2013 EU Parliament election distributed a leaflet showing images and slogans aimed at supporting the idea that immigrants and other ethnic minorities are culturally more inclined to commit crimes. He stressed that his intention was to point out his political commitment to contrast crimes and delinquency.	According to the Court of Cassation the decision of the Court of Appeal of Trieste erred in law and the complainant could not be ascribed the criminal offence of propaganda and dissemination of racist ideas. In fact, the concept of propaganda is less generic than the concept of "ideas dissemination", since the first also includes the aim of manipulating recipients' mentality, behaviours and psychology and of gathering consensus towards such ideas. In this respect, the complainant's behaviour can be labelled as propaganda because its aim was to foster public consensus and to be elected; nonetheless, the propaganda was not directed against specific minority groups but against the criminal conducts of some of their members. Of course the political idea on which the propaganda was based was that those groups are more inclined at committing such crimes but this opinion is conveyed in a particular context, that is the electoral campaign. For this reason, the Court of Cassation - having to balance the right to non-discrimination with the right of expression of opinions and ideas - decided not to consider the complainant's conduct as racist propaganda.	This decision is important because the Court contributed to the interpretation of the concept of "racist propaganda" and to set boundaries to the conducts that can be considered criminally relevant. Moreover, the Court recalled the most important decisions concerning this issue of both Italian and European courts. Finally, the Court set criteria for the correct balance of the right to express ideas and opinions, the protection of human dignity and the right to non-discrimination.	The complaint has to be considered legitimate: the decision of the Court of Appeal of Trieste is to be considered not valid.	Point 11 of the decision: "Appare evidente, infatti, che il messaggio del volantino era quello di propagandare un'avversione non verso i soggetti sullo stesso raffigurati in maniera caricaturale, ma verso le attività illecite dagli stessi posti in essere. Siamo di fronte, evidentemente, ad un messaggio politico che risente di un pregiudizio per cui determinate attività delittuose vengono poste in essere prevalentemente dai membri di determinate etnie [...] Tuttavia, nel necessario bilanciamento di interessi costituzionalmente protetti di cui si è detto, da operare di volta in volta rispetto al caso concreto, appare nell'occasione prevalere il diritto alla libera manifestazione del proprio pensiero politico, nell'ambito di una competizione elettorale [...] L'odierno ricorrente non appare pregiudizialmente ostile a determinate etnie in quanto tali. Nella sua visione lo è perché ricollega alle stesse lo svolgimento di determinate attività illecite" "In fact, it seems evident that the message conveyed by the leaflet was to propagandise an aversion not towards the subjects portrayed on it, but towards the criminal activities they carry out. This is glaringly a political message based on the prejudice that some criminal activities are carried out mainly by the members of specific ethnic groups [...] nonetheless, in the necessary balance between constitutionally guaranteed interests, which has to be assessed case by case, it seems that in this occasion the right to the expression of political opinions has to prevail, in the context of an electoral competition"

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