

Database 2012-2020 on anti-Muslim Hatred

Cases and rulings

This database section allows to search here for international, European and national case law and rulings as well as decisions by courts, and decisions, reports, findings by human rights or equality bodies and organisations, relating to hate crime and incitement to hate speech, hate crime and discrimination against Muslims.

Filter the database by

COUNTRY(-IES) :

Italy

YEAR(S) :

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

BIAS MOTIVATION AS DEFINED BY COURT/BODY :


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

COURT/BODY TYPE :

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

CRIME TYPE :

Homicide, Physical violence, Arson, Vandalism, Property offence, Threat of violence, Incitement to violence or hatred, 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
	2012	Italy / Ordinary Court of	http://old.asgi.it/public/parser_download/	Ethnic origin	Ordinary Court of	The director and the	According to the Court, the conduct of the perpetrators is to be considered racial	This case is relevant because it is one of the first judicial	The company were condemned for racial	“I predetti comportamenti integrano

Milan /
Decision no.
16945

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Milan
(Tribunale di
Milano)

management board of a bank discriminated and used hate speech against the complainant and other colleagues because of their ethnic origins on several occasions. This conduct, besides being an example of discrimination and hate speech, contributed to the creation of an threatening environment on the workplace, also considering the role and power of the perpetrators compared to the

harassment to the detriment of the complainant. In fact, such conduct has been proven with sufficient certainty and contributed to the creation of an unsafe environment at the workplace.

decision which applies the EU Directive 2000/43/EC. Moreover, the Court stressed the potential impact of discriminatory conduct in the workplace also considering the power employers have compared to their employees. Moreover, the Court stressed a crucial principle of the above-mentioned directive (art. 8), that is "it shall be for the respondent to prove that there has been no breach of the principle of equal treatment". In this case, the perpetrators could not prove that their conduct could not be considered discriminatory.


harassment and to a EUR 5,000 fine to be paid to the victim. The company was also condemned to the compensation of the judicial proceeding expenses. The Court also decided that the legal representative of the company is compelled to ensure that the racist conduct is stopped and to affix in the company's offices a public notice condemning any form of racist and discriminatory conduct.

sicuramente delle molestie o, quantomeno, dei comportamenti indesiderati a sfondo razziale aventi lo scopo e, sicuramente, l'effetto di violare la dignità personale del ricorrente e delle altre persone di colore o, comunque, straniere presenti in azienda, creando nel contempo un clima lavorativo umiliante e offensivo tenuto conto del loro diretto ed esplicito riferimento alla razza e al colore del ricorrente e ai conseguenti minori diritti riconoscibili ... in capo allo stesso [...] la sussistenza e la rilevanza giuridica di tali condotte e del conseguente

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clima offensivo
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soggetti agenti,
di per sé sole
idonee a
condizionare
anche l'operato
e i
comportamenti
degli altri
dipendenti sia
italiani che
stranieri”

“The above-
mentioned
conducts surely
represent
harassment or,
at least,
unwanted racist
conducts having
the purpose
and, surely, the
effect of
violating the
personal dignity
of the
complainant
and of the other
people of
colour or, in
any case,
foreigners
working for the
company, at the

										same time creating a work environment that was humiliating and offensive also considering the direct and explicit reference to the race and colour of skin of the complainant and to the inferior rights he could benefit from”
	2013	Italy / Criminal Court of Padua / Sentence no. 1615		Race, Ethnic origin	Criminal Court of Padua	A female district council member from the Northern League party in the municipality of Padua, posted on her Facebook page the following comment, under a photo of the Minister of Integration Cecile Kyenge (who is of	The accused argued that there was no offensive or racist intent in her comment and that her reaction was due to a similar episode her daughter had suffered in the past from a ‘non-Italian’. The judges considered the defence irrelevant and contradictory. The statement itself and the behaviour of the woman during trial showed that her post was motivated by racist-hatred. The defendant had not been able to explain in what other way the alleged attempted rape by a Somali man was connected to the Minister except for the only reason that the minister shares with the man a vague and rather imprecise geographical origin and skin colour.	Incitement to rape and violence do not require the crime to be committed against the targeted person in order to be effective. The means used and the context in which the statement was made clearly demonstrate instigation; the comment was posted on Facebook and was followed by many other racist messages.	The defendant was convicted for violating art 1 (1) lett (b) of Mancino law.	"Non è in conseguenza possibile alcuna interpretazione alternativa a quella di un preciso pregiudizio razzista estrinsecandosi in un invito esplicito allo stupro nei confronti della ministra in quanto “meritevole” di ciò per le sole circostanze, da un lato di condividere con il personaggio di Genova una (vaga e pure imprecisa)

						<p>Congolese origin): “But is there no one there who could rape her, just to let her understand how a victim of such a ferocious crime could feel? Shame!”.</p>				<p>provenienza geografica e il colore della pelle e, dall'altro e in forza del suo ruolo pubblico, di rappresentare tutti i componenti di tale razza”</p> <p>"No other interpretation is consequently possible other than that of a precise racist prejudice expressed in an explicit invitation to rape the minister who «deserved» such act for the only reason that she shares with the man in Genova a (vague and rather imprecise) geographical origin and skin colour ... and, in view of her public role, she represented all the members of that “race”. "</p>
	2012	Italy / Ordinary	http://old.asgi.it/public/pars	Race	Ordinary Court	The Public Prosecutor	The Court of Padua accepted the charges proposed by the	On the one hand, this decision the Court	The two constructors were	"La circostanza aggravante della

Court of
Padua /
Decision no.
206

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of
Padua
(Tribun
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of Padua
accused
the
complainan
ts of insults
and
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by the
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ng racial
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ion. On 4
August
2010 two
delegates
of an
Italian
trade
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visited the
constructio
n site of
two Italian
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constructor
s in order
to provide
the
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with
informatio
n
concerning
their
rights.
They were
repeatedly
insulted by
the
building

Public Prosecutor of Padua
considering that the
complainants' version of the
events was confirmed by
several witnesses. Moreover,
the Court agreed to aggravating
the charges considering the
clearly racist and
discriminatory purpose of the
constructors' conduct, as
envisaged by art. 3 of the Law
No. 205 of 25 June 1993 on
"Urgent measures concerning
racial, ethnic and religious
discriminations" (Legge 25
giugno 1993, n. 205 "Misure
urgenti in materia di
discriminazione razziale, etnica
e religiosa"). According to the
Court, in order to recognise
the aggravating factor, it is
sufficient that the conduct
clearly expresses the
discriminatory idea that some
people are inferior to others
because of their racial, ethnic
or religious belonging and it is
not relevant if the racist
conduct can potentially
influence other people in
perpetuating the racist
conduct.

confirmed the
necessary criteria to
apply the aggravating
factor envisaged by
the Law No. 205 of 25
June 1993. Moreover,
the Court confirmed
that the use of the
degrading word
"nigger" - used several
times by the two
building contractors in
this specific episode -
cannot be considered
a word merely
describing the colour
of the skin of another
person; this word is
rather a racist insult
considering its origin
and history.



condemned for
the charges
proposed by the
Public Prosecutor
to 8 months and 2
months of
detention. The
two constructors
were also
condemned to
compensate to the
victims the costs
of the judicial
proceeding.

finalità di
discriminazione
o di odio etnico,
nazionale,
razziale o
religioso è
integrata
quando ...
l'azione si
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e percepibile
nel contesto in
cui è maturata,
avuto anche
riguardo al
comune sentire,
di un
sentimento di
avversione o di
discriminazione
fondato sulla
razza, l'origine
etnica o il
colore"

"the aggravating
factor
concerning the
purpose of
discrimination
or ethnic,
national, racial
or religious
hatred is
applicable
when ... the
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contractors
for the
colour of
their skin.

immediately
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the context it is
perpetrated,
also considering
the common
opinion, of a
feeling of
aversion or
discrimination
based on the
race, the ethnic
origin or the
colour”

	2013	Italy / Court of Cassation / 4879		Race, Ethnic origin	Corte di cassazione	Two men were prosecuted for the crime of apology of fascism (promoting fascist ideology or symbols) and for being part of the group Milizia, which has among its aims, to instigate discrimination or violence on racial and ethnic grounds. They were subjected to security measures.	The Court argued that there were sufficient elements to suspect that the two men were responsible for the crime of apology of fascism and that there was a risk they would commit the same kind of crime again, considering the continuity of the illegal conduct and the crimes of the same nature they had already committed.	It is the competence of the judicial authority and not of the administrative authority to apply security measures.	They were subjected to security measures.	<p>"Il tribunale ... ha apprezzato, con motivazione adeguata e coerente scvera da violazioni della logica e del diritto, le esigenze cautelari senza invadere le competenze preventive dell'autorità amministrativa"</p> <p>"The Tribunal ... has established, with adequate and coherent motivation based on logic and the law, the need to adopt security measures without interfering with the competences of the administrative authority. "</p>
	2012	Italy / Court of Cassation / Decision no. 19265	http://www.tuttostranieri.org/sentenze/sentenza-n-19265-del-21-maggio-2012-corte-di-	Race, Ethnic origin	Italian Court of Cassation (Corte di Cassazione)	The Court of Cassation had to assess the legitimacy of the	According to the Court of Cassation the complaint cannot be accepted and the decision of the Court of Appeal of Trieste is to be considered legitimate since the complainant's conduct even	This decision is relevant because the Court of Cassation contributes to the correct interpretation of the meaning and field of application of	The decision of the Court of Appeal of Trieste is to be considered legitimate and the complainant's conviction is valid.	Point 3 of the decision: "per la configurazione dell'aggravante della finalità di discriminazione o di odio etnico,

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cassazione/](#)

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decision of the Court of Appeals of Trieste which had condemned the complainant for false report and menaces aggravated by reasons of ethnic hatred. The accused person sent threatening letters to a public institute – whose name is omitted in the decision – containing a white powder – similar to anthrax – and several degrading and racist phrases and menaces.

though not aimed at damaging a specific person but an institution can in any case be ruled by the anti-discrimination legislation since it was aimed at causing alarm and disseminating racial hatred.

the anti-discrimination and racism legislation. More specifically, the Court stressed that to apply the aggravating factor based on the attempt to discriminate or disseminate racial, ethnic, religious and national hatred, as envisaged by art. 3 of the Law No. 205 of 25 June 1993, is not necessary that the criminal conduct is potentially able to publicly disseminate its hatred and discriminatory content- It can be applied also to those conducts which are perpetrated between private subjects and not perceived by others.

nazionale, razziale o religioso [...], non sia necessario che la condotta di incriminata sia destinata o, quantomeno, potenzialmente idonea a rendere percepibile all'esterno ed a suscitare il riprovevole sentimento o, comunque, il pericolo di comportamenti discriminatori o di atti emulativi, giacché ciò varrebbe ad escludere la aggravante in questione in tutti i casi in cui l'azione lesiva si svolgono in assenza di terze persone"


"in order for the aggravating factor based on the attempt to discriminate or disseminate racial, ethnic, religious and national hatred [...] to be

										applicable, it is not necessary that the criminal conduct is destined, or at least potentially able to propagandise or raise the reprehensible feeling or, in any case, discriminatory actions or emulative behaviours, since it would exclude the application of the aggravating factor to all those cases when the damaging actions are perpetrated in the absence of third external subjects”
	2013	Italy / Court of Cassation / Decision no. 33179/13	http://www.asgi.it/wp-content/uploads/public/cassaz_33179_2013.pdf	Race	Italian Court of Cassation (Corte di Cassazione)	The accused was the owner and manager of a website whose aim was to disseminate racist hate speech and violent	The Court of Cassation considered the decision of the Ordinary Court of Rome legitimate and confirmed the sentence against the complainant. More specifically, the Court stressed that Italian Courts are in charge of judging this case even though the website's server is based in the USA, because the criminal conduct was organised and implemented in Italy; most of	The decision is relevant because it is one of the first Italian Court's decisions ruling criminal conducts perpetrated on the Internet. The Court stressed the crucial importance of social media in current days and the additional possibilities they offer for criminal	The Ordinary Court of Rome's decision to condemn the complainant is confirmed by the Court of Cassation.	Point 4 of the decision: "... il legislatore italiano ha punito come delitto la diffusione di idee fondate sulla superiorità o sull'odio razziale, nonché l'incitamento a

					<p>discourse. He was charged for incitement to discrimination or violence based on racist grounds. According to him, this accusation is illegitimate because the website's server is based in the USA and because the dissemination of such content on the Internet did not have the potential of creating a political group fostering racial hatred.</p>	<p>the criminal actions have been perpetrated in Italy and the website's users are mostly based in Italy. Moreover, the current use of the Internet and of the social media is a further possibility of perpetration of certain criminal conducts, including hate speech and hate crimes. For this reason, the concerned legislative disposition can be applied also in those cases where racist groups and organisations whose aim is to disseminate hate speech and racial discrimination are organised and act on the Internet.</p>	<p>conducts, especially in case of discriminatory discourses and hate speech.</p>	<p>commettere atti di discriminazione o di provocazione alla violenza nei confronti di persone perché appartenenti a un gruppo nazionale, etnico o razziale [...]. È stato affermato che la norma incriminatrice [...] configura un delitto di pura condotta, consistente nella propaganda razzista o nella istigazione a commettere atti di discriminazione razzista, che si perfeziona indipendentemente dalla circostanza che la propaganda o la istigazione siano raccolte dai destinatari. Ed è anche delitto con dolo generico, integrato dalla mera coscienza e volontà di propagandare</p>
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idee razziste o di istigare alla discriminazione razzista, giacché la norma non richiede nell'agente uno scopo eccedente rispetto all'elemento materiale del reato [...] la propaganda si qualifica come diffusione di messaggi volta a influenzare le idee e i comportamenti dei destinatari, e la stessa è tanto più efficace quanto più si affida alle nuove tecnologie di comunicazione, quali i social network e i siti web”

“racist propaganda or incitement to racist discrimination actions[...] can be assessed without considering if the propaganda or the incitement are

										actually received by the recipients. Moreover, it has to be considered a generic criminal offence, based on the mere awareness and will of disseminating racist ideas and inciting to racist discrimination [...] the propaganda includes the dissemination of messages aimed at influencing the ideas and behaviours of the recipients, and it is even more efficacious if it is perpetrated through the new communication technologies, such as social networks and websites”
	2014	Italy / Ordinary Court of Trento / Decision no. 508	http://www.asgi.it/wp-content/uploads/2014/07/14-07-14-sentenza-	Race	Ordinary Court of Trento (Tribunale)	The Public Prosecutor of Trento charged the accused	According to the Court, the accused person's defence is to be considered untenable since he voluntarily decided to publish the status on Facebook using the public mode so that it	This decision is relevant because the Court contributed to the jurisprudence ruling the application of the traditional	The accused person was condemned for defamation aggravated by the purpose of	“A parere del collegio, la frase (...) se ne torni nella giunga dalla quale è uscita

[serafini.pdf](#)

Penale
di
Trento)

for
defamation
aggravated
by the
purpose of
disseminati
ng racial
hatred and
racial
discriminat
ion. The
accused
published
a racist
status on
his
Facebook
timeline
against the
Italian
Ministry of
Integration
who was
an Italian
citizen of
African
origins. His
status was
also
reported
by a local
newspaper.
This racist
conduct
was
reported
to the
authorities
by certain
Italian
NGOs
which
became

could be read by all users and
not only by his Facebook
friends. Moreover, as to the
content of the status, the
accused person stated that it
was to be considered as
protected by his freedom of
expression. According to the
Court, even if one of the limits
to the freedom of expression is
the protection of other
people's dignity: in this case,
the content of the Facebook
status was degrading and racist,
compromising the dignity of
the target, that is the former
Ministry of Integration. The
Ministry was targeted because
of her ethnic origin and that is
why the conduct besides being
defamation has to be
considered aggravated by the
accused person's racist motive.

legislation concerning
the contrast to racism
and discrimination to
the hate crimes and
hate speech
perpetrated through
Internet and the social
networks.

disseminating
racial hatred; he
was also
condemned to a
EUR 2,500 fine
and to the
compensation of
the judicial
proceeding
expenses.

pubblicata su
Facebook si è
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inoltre, ha
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quella idoneità
potenziale a
conseguire lo
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parametrata al
dato culturale
che l'ha
connotata ...”

“According to


					plaintiff in the proceeding .					the Court, the phrase (...) she should go back to the jungle she came from published on Facebook represents [...] an aware exteriorisation, immediately perceivable, in the context it was produced in, also considering the public opinion, of an idea of aversion or discrimination based on race, ethnic origin or skin colour, that is an idea immediately perceivable as the exclusion of equality conditions. Moreover, the publication also showed the potential capability to attain the discriminatory purpose also considering its cultural context ...”
	2015	Italy / Court of Cassation /	http://www.asgi.it/wp-	Race, Religi	Italian Court	The Court of Appeal	According to the Court of Cassation the decision of the	This decision is important because the	The complaint has to be considered	Point 11 of the decision:

	Decision no. 36906	content/uploads/2015/09/Corte-di-Cassazione-III-sentenza-n.-36906-del-14-settembre-2015-pres.-Franco-est.-Pezzella-Salm%C3%A8-Stefano.pdf	on	of Cassation (Corte di Cassazione)	<p>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</p>	<p>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.</p>	<p>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.</p>	<p>legitimate: the decision of the Court of Appeal of Trieste is to be considered not valid.</p>	<p>“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 e 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</p>
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inclined to
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concreto,
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una
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elettorale [...]
L'odierno
ricorrente non
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pregiudizialmen
te 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”
	2017	Italy / Ordinary Court of Milan - 7th Criminal Section/Decision of 18 December 2017	http://www.poraneo.it/uploader/6713-sentenza-bastardi-islamici.pdf	Religion	Ordinary Court of Milan - 7th Criminal Section (Tribunale Ordinario	After the Paris terrorist attack of 13 November 2015, the Italian newspaper "Libero" issued an article - on	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	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	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

<p>io di Milano - Sezione 7° Penale)</p>	<p>its front page - titles "Islamic bastards". Many association s filed complaints against this title but the Court accepted only the CAIM (Coordinati on of Islamic Association s of Milan, Monza and Brianza) as party in the proceeding .</p>	<p>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.</p>	<p>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”.</p>	<p>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</p>
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vilipendio della
religione
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azione a un
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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

