[BE] Racism and the Internet

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Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

On 22 December 1999, the regional criminal court in Brussels applied for the first time the act of 30 July 1981 that makes it a criminal offence to include racist or xenophobic comments in texts circulated on the Internet. W.E., a civil servant, was held to be the person behind a number of manifestly racist messages circulating within a particular newsgroup (soc.culture. belgium). The court found that analysis of these messages clearly indicated the deliberate intention by the person writing them to encourage segregation, hate or violence in respect of the Moroccan and African communities in Belgium, thereby meeting the conditions of publicity required by the law on discrimination. The communication of racist messages in an Internet newsgroup is thus considered to be a form of publicity covered by the act of 30 July 1981. According to the court, it is only necessary for it to be possible to read the messages for the condition of publicity to be satisfied. The court sentenced the accused to six months' imprisonment (with three years' suspension) and ordered a fine of BEF 100 000 and payment of the sum of BEF 100 000 to the complainant, the Centre pour l'Egalité des Chances et la Lutte contre le Racisme. The court took into account the serious nature of the facts established against the accused, which it found all the more unacceptable since their author was "a police officer whose vocation should be to respect and pursue execution of the law rather than break it ".

It is interesting to note that the court declared itself territorially competent to deal with the offence, as the libel, racist slander and insults had been proffered wherever their circulation was likely to have been received or heard. In the case in question, the court took into account that it was an established fact that the reception of messages and participation in a newsgroup was possible anywhere in Belgium and more particularly within the legal district of Brussels.

Although the racist texts circulating or accessible on the Internet could constitute offences under legislation on the press, which are normally dealt with exclusively by the assize court, the regional criminal court was nevertheless empowered since May 1999 to deliberate on the criminal nature of racist texts circulated by means of the press (or by Internet). Indeed, since the amendment of Article 150 of the Constitution on 7 May 1999, offences under legislation on the press inspired by racism or xenophobia are no longer referred to the people's jury of the assize court, the regional criminal court is competent to deal with such cases.

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Jugement du 22 décembre 1999, Ministère Public et CECLR c. W.E.

Judgement of 22 December 1999, Ministère Public and CECLR vs. W.E.

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