

[NO] First Conviction for Dissemination of Racist Material over Internet

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On 22 April 2002 Asker og Bærum Tingrett (Asker and Bærum District Court - a court of first instance) became the first Norwegian court to convict a person (hereinafter referred to as "T.") to unconditional imprisonment (30 days) for having disseminated racist material among the public using the Internet and printed media.

Fifty-nine year-old T. is one of the leading figures in an organisation called Vigrid. This organisation believes in racial superiority and has declared the Jewish people to be its archenemy. On the organisation's website and in its monthly magazine, Vigrid has expressed its views through statements claiming the superiority of the white race and accusing the Jews of paedophilia, necrophilia, sodomy and white-slave traffic of non-Jewish women.

These statements led the prosecution to charge T. with the infringement of Straffeloven §135a (General Penal Code - strl.), which prohibits utterances that threaten, insult, or subject to hatred, persecution or contempt any (group of) person(s) because of their creed, race, colour or national or ethnic origin. In assessing the charges, the Court found that T.'s active role on the Vigrid website and the fact that he was the sole editor of the monthly magazine made him responsible for the content of both. In order to ascertain whether the aforementioned statements constituted a violation of §135a strl., the Court weighed the purpose and scope of §135a strl. on the one hand against freedom of expression and freedom of religion on the other. Freedom of religion was considered because Norse mythology and the worship of Nordic gods play an important role in Vigrid.

Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, aiming at hindering the spread of racist ideas, formed the background for the adoption of §135a strl. Freedom of expression and freedom of religion are protected by the Norwegian Constitution and through various international instruments. The Court referred to the jurisprudence of the European Court of Human Rights which gives racist utterances very limited protection. Høyesteretten (the Supreme Court) has in previous cases established that there should be a rather large margin for unfortunate and tasteless expressions. Asker

og Bærum Tingrett, however, found T.'s statements to be of such a grossly racist nature that they are not covered by freedom of expression or by freedom of religion. Asker og Bærum Tingrett emphasised that the statements could not be regarded as isolated or spontaneous expressions. The utterances in question form part of a great number of similar expressions made by an organisation headed by T. that tries to recruit young people in particular.

The conclusion of the Court was that T. had made insulting and disdainful statements about Jews and coloured people in Norway, exposing them to hatred and persecution. T. was convicted to a total of 75 days of imprisonment (of which 45 are conditional). T. may appeal the decision.

Almindelig borgerlig Straffelov (Straffeloven), 1902-05-22 nr.10

<http://www.lovdatab.no/all/nl-19020522-010.html>

The General Civil Penal Code, Act of 22 May 1902 No. 10

<http://www.ub.uio.no/ujur/ulovdata/lov-19020522-010-eng.doc>

The International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965

http://www.unhcr.ch/html/menu3/b/d_icerd.htm

The Constitution of the Kingdom of Norway of 17 May 1814

<http://www.odin.dep.no/odin/engelsk/norway/system/032005-990424/>

