[NL] Conviction for Holocaust Denial on Website

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On 21 December 2004, the Rechtbank `s Hertogenbosch (the District Court of `s Hertogenbosch) convicted a person (hereinafter referred to as "J") to suspended sentence of imprisonment for four weeks (with a probation period of two years) for having deliberately insulted Jews over the internet. J. had created a web-site on which he had put several texts denying that the holocaust ever occurred. He had also created links to other texts, one of which was a full-text version of a book entitled "Did six million people really die?", written by Richard E. Harwood. Furthermore, he had translated several chapters of this book into Dutch and had made these translations available on his web-site. On the basis of Article 137 of the Wetboek van Strafrecht (the Dutch Criminal Code), J. was prosecuted for having incited hatred of, discrimination and/or violence against persons (in casu Jews), for having made intentional defamatory statements about Jews and for having made public statements which he knew or should have reasonably suspected to be offensive to Jews (respectively Article 137d, 137c and 137e of the Dutch Criminal Code). The Court did not consider the allegation of incitement to hatred of Jews as such to be proven. Faced with the alternative allegation of having made defamatory statements, J. relied upon the right of freedom of expression included in Article 10 ECHR by arguing that he did not have the intention to insult people, but only to participate in the public debate about Jews, Palestine, the holocaust and revisionism. The Court dismissed this argument by judging that the statements were both by their nature and in their context needlessly grievous. They could not be considered as statements with no other purpose than participating in the public debate about a social or historical issue. Therefore, the Court convicted J. for having intentionally made defamatory statements about Jews. In determining the sentence, the Court took into account the fact that J. had not yet been convicted for any offence and that he had removed the web-site immediately after the police pointed out the offence to him.

Rechtbank `s Hertogenbosch, 21.12.2004, LJN No: AR7891

http://www.rechtspraak.nl/

District Court of Hertogenbosch, Judgment of 21 December 2004, LJN No: AR7891

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