[FR] TV Reporter Convicted of Provocation of Racial Hatred

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Speaking in March 2010 in a television debate on the integration of immigrants, a reporter said, “Why are these people getting their ID checked so often? Why? Because most traffickers are Blacks and Arabs - that’s just the way it is, it’s a fact.” He was prosecuted after complaints were made by a number of anti-racism associations on the grounds of racial defamation and provocation of racial hatred. Article 32 (2) of the Act of 29 July 1881 on the freedom of the press lays down a sentence of one year’s imprisonment and/or a fine of EUR 45,000 as the penalty for public defamation committed “in respect of a person or group of persons because of their origin or their belonging or not belonging to a specific ethnic group, nation, race or religion”. Article 24 (8) of the Act provides for the same punishment for anyone publicly provoking discrimination, hatred or violence in respect of a person or a group of persons because of their origin or their belonging to a specific race. In its judgment delivered on 18 February 2011, the 17th chamber of the regional court in Paris held that, despite its abrupt, unambiguous nature, the utterance at issue did not constitute racial defamation. The only specific fact in the disputed utterance that constituted an infringement of honour was the reference to traffickers. This only referred to a very limited number of individuals - i.e., those involved in trafficking - compared with the entire group constituted by black people and Arabs. Thus the slur did not refer to the group as a whole, which the court found was not the same as this small group of specific offenders. On the other hand, the offence of provocation of racial discrimination was proven, in that by uttering the sentence at issue the reporter was clearly and directly justifying the arbitrary systematic checks being carried out on certain categories of the population on the basis of their origin or their race. While the accused was entitled to express his point of view on the problems connected with immigration and on ID checks carried out on the basis of ethnic appearance, this did not necessarily legitimise an illegal practice on the part of the police. By justifying discriminatory checks in this way, the reporter was clearly encouraging discrimination against a group of persons, defined as being black people and Arabs, purely by virtue of their belonging to a “race” within the meaning of the Act, which the court held were the only selection criteria on which the ID checks at issue were being carried out. Thus even in the context of an open debate on societal phenomena within the scope of legitimate public interest, the accused had exceeded the limits of freedom of expression allowed by law. He was fined EUR 1,000 conditionally and ordered to pay one euro in damages to the

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associations that were private complainants in the proceedings. As no appeal has been lodged, the judgment is final.

TGI de Paris (17e ch.), 18 février 2011, SOS Racisme et a. c. E. Zemmour

Regional court of Paris (17th chamber), 18 February 2011, SOS Racisme et al. v E. Zemmour

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