European Court of Human Rights: Fouad Belkacem v. Belgium

IRIS 2017-9:1/1

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

In a case concerning religious extremism on the Internet, the European Court of Human Rights ("ECtHR") confirmed that defending "Sharia law" while calling for violence to establish it could be regarded as "hate speech". The Court held that, in accordance with Article 17 (prohibition of abuse of rights) of the European Convention on Human Rights ("ECHR"), the discourse at issue did not fall under the protection of Article 10 of the ECHR, which guarantees the right to freedom of expression.

The case concerns the conviction of Mr Belkacem, the leader and spokesperson of the organisation "Sharia4Belgium" (which was dissolved in 2012) for incitement to discrimination, hatred and violence on account of remarks he made in YouTube videos concerning non-Muslim groups and Sharia law. Mr Belkacem was prosecuted for various offences under Belgium's Anti-Discrimination Law of 10 May 2007 and for online harassment with discriminatory intent. In the videos in question Mr Belkacem called on viewers, among other things, to overpower non-Muslims, "teach them a lesson" and to fight them. He also advocated jihad and Sharia law. In 2013 the Antwerp Court of Appeal sentenced Mr Belkacem to a suspended term of one year and six months' imprisonment and to a fine of EUR 550. The Antwerp court specified that the offence of public incitement to discrimination, violence and hatred was undoubtedly intentional, explicit, firm and repeated. The Court of Cassation dismissed an appeal lodged by Mr Belkacem. It found that Mr Belkacem had not simply expressed his views, but had unquestionably incited others to engage in discrimination on the basis of faith and discrimination, segregation, hatred or violence towards non-Muslims, and had done so knowingly and therefore intentionally.

Relying on Article 10 ECHR, Mr Belkacem argued before the ECtHR that he had never intended to incite others to hatred, violence or discrimination but had simply sought to propagate his ideas and opinions. He maintained that his remarks had merely been a manifestation of his freedom of expression and religion and had not constituted a threat to public order.

The ECtHR reiterates that, while its case-law enshrines the overriding and essential nature of freedom of expression in a democratic society, it also lays down its limits by excluding certain statements from the protection of Article 10. The ECtHR notes that Mr Belkacem published a series of videos on the YouTube

© European Audiovisual Observatory (Council of Europe) 2026

platform in which he called on viewers to overpower non-Muslims, teach them a lesson and fight them. The ECtHR is in no doubt as to the markedly hateful nature of Mr Belkacem's views, and agrees with the domestic courts' finding that Mr Belkacem, through his recordings and video messages on the Internet, had sought to stir up hatred, discrimination and violence towards all non-Muslims. In the Court's view, such a general and vehement attack is incompatible with the values of tolerance, social peace and non-discrimination underlying the Convention. With particular reference to Mr Belkacem's remarks concerning Sharia law, the Court reiterates that it has ruled that the fact of defending Sharia law while calling for violence to establish it could be regarded as "hate speech", and that each Contracting State was entitled to oppose political movements based on religious fundamentalism. The ECtHR also observes that the Belgian legislation, as applied in the present case, appeared to be in conformity with the relevant provisions and recommendations of the Council of Europe and the European Union aimed at combating incitement to hatred, discrimination and violence. Lastly, the ECtHR considers that Mr Belkacem had attempted to deflect Article 10 of the Convention from its real purpose by using his right to freedom of expression for ends which were manifestly contrary to the spirit of the Convention. Although reiterating that the abuse clause of Article 17 is only applicable on an exceptional basis and in extreme cases, the ECtHR finds it applicable in the case at issue. Accordingly, it holds that, in accordance with Article 17 of the ECHR, Mr Belkacem could not claim the protection of Article 10 of the ECHR. The ECtHR decides that the application is therefore incompatible ratione materiae with the provisions of the ECHR (Article 35 §§ 3(a) and 4) and is inadmissible.

Décision rendue le 27 juin 2017 par la Cour européenne des droits de l'homme, deuxième section, dans l'affaire Fouad Belkacem c. Belgique, requête n° 34367/14, publiée le 20 juillet 2017

Decision by the European Court of Human Rights, Second Section, case of Fouad Belkacem v. Belgium, Application no. 34367/14 of 27 June 2017, communicated on 20 July 2017

https://hudoc.echr.coe.int/eng?i=001-175941

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026