



Hate speech by the leader of a radical Salafist organisation was not protected by freedom of expression

In its decision in the case of [Belkacem v. Belgium](#) (application no. 34367/14) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned 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.

The Court noted that in his remarks Mr Belkacem had called on viewers to overpower non-Muslims, teach them a lesson and fight them. The Court considered that the remarks in question had a markedly hateful content and that Mr Belkacem, through his recordings, had sought to stir up hatred, discrimination and violence towards all non-Muslims. In the Court’s view, such a general and vehement attack was incompatible with the values of tolerance, social peace and non-discrimination underlying the European Convention on Human Rights.

With reference to Mr Belkacem’s remarks concerning Sharia, the Court observed that it had previously ruled that defending Sharia 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 Court therefore rejected the application, finding that it was incompatible with the provisions of the Convention and 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.

Principal facts

The applicant, Fouad Belkacem, is a Belgian national who was born in 1982 and lives in Boom (Belgium). He was the leader and spokesperson of the organisation “Sharia4Belgium”, which was dissolved in 2012.

Mr Belkacem was prosecuted for various offences under the Law of 10 May 2007 on combating certain forms of discrimination, especially on account of remarks he had made and published on YouTube concerning the Belgian Defence Minister at the time and the deceased husband of a Belgian female politician. In the videos in question Mr Belkacem had called on viewers, among other things, to overpower non-Muslims, teach them a lesson and fight them. He also advocated jihad and Sharia.

On 10 February 2012 the Antwerp Criminal Court sentenced Mr Belkacem to a two-year prison term and a fine of 550 euros (EUR). The applicant appealed. On 4 May 2012 the Antwerp Criminal Court confirmed the judgment but suspended enforcement of the custodial sentence for five years. Mr Belkacem lodged an appeal. On 6 June 2013 the Antwerp Court of Appeal sentenced him to a suspended term of one year and six months’ imprisonment and to a fine of EUR 550. The court specified that the offence of public incitement to discrimination, violence and hatred was clear simply from the description of the facts. Mr Belkacem lodged an appeal on points of law.

On 29 October 2013 the Court of Cassation dismissed the appeal. It found that Mr Belkacem had not simply expressed his views, but had unquestionably incited others to discrimination on the basis of

faith and to discrimination, segregation, hatred or violence towards non-Muslims, and had done so knowingly and therefore intentionally.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 29 April 2014.

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights, Mr Belkacem argued 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 been apt to constitute a threat to public order.

The decision was given by a Chamber of seven judges, composed as follows:

Robert Spano (Iceland), *President*,
Julia Laffranque (Estonia),
Ledi Bianku (Albania),
Işıl Karakaş (Turkey),
Paul Lemmens (Belgium),
Jon Fridrik Kjølbro (Denmark),
Stéphanie Mourou-Vikström (Monaco), *Judges*,

and Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 10 (freedom of expression)

The Court noted at the outset that, while its case-law enshrined the overriding and essential nature of freedom of expression in a democratic society, it also laid down its limits by excluding certain statements from the protection of Article 10 of the Convention. In that connection the Court noted that Mr Belkacem had published a series of videos on the YouTube platform in which he called on viewers to overpower non-Muslims, teach them a lesson and fight them. The Court was in no doubt as to the markedly hateful nature of Mr Belkacem's views, and agreed with the domestic courts' finding that the applicant, through his recordings, had sought to stir up hatred, discrimination and violence towards all non-Muslims. In the Court's view, such a general and vehement attack was incompatible with the values of tolerance, social peace and non-discrimination underlying the Convention. With particular reference to Mr Belkacem's remarks concerning Sharia, the Court reiterated that it had ruled that the fact of defending Sharia 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, for instance a movement that aimed to establish a political regime based on Sharia¹.

The Court went on to observe that the Belgian legislation as applied in the present case appeared to conform to 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 Court considered 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

¹ *Refah Partisi (The Welfare Party) and Others v. Turkey* [GC], nos. 41340/98 and 3 others, §§ 123-124, ECHR 2003-II

contrary to the spirit of the Convention. Accordingly, the Court held that, in accordance with Article 17 of the Convention, Mr Belkacem could not claim the protection of Article 10.

The application was therefore incompatible *ratione materiae* with the provisions of the Convention (Article 35 §§ 3(a) and 4).

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.