

NEWS REPORT

Date: 9 February 2010
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Title: Condemnation of city councillor Olivier Delcourt for performing the Nazi salute while taking oath
Country: Belgium

Context

Issue at stake: Nazi salute made by city councillor during public oath-taking ceremony

Ground of discrimination: Race/ethnic origin

Source: Court of Appeals (*Cour d'appel*) of Mons, 30 January 2010

Field: Other (Incitation of discrimination, segregation, hatred or violence)

Legislative provisions: Articles 1, 2, 3 and 4 of the Federal Act of 30 July 1981 criminalising certain acts inspired by racism or xenophobia

Content

Case: The defendant, Olivier Delcourt, was prosecuted on the basis of the Act of 30 July 1981 criminalising certain acts inspired by racism and xenophobia for making the fascist salute during his oath-taking as a city councillor in December 2006. The appeal was filed by the defendant and the prosecution against the judgment of 15 June 2009 of the First Instance Criminal Court (*Tribunal correctionnel*) of Charleroi. The latter judgment had, on the criminal level, condemned Olivier Delcourt to a 1,000 Euros fine for encouraging “discrimination, segregation, hatred or violence towards a group, a community or their members, because of the race, the colour, the ascent or the national or ethnic origin of these members or of some of them” and for giving a publicity to its intention to stir up discrimination, segregation, hatred or violence towards such a group (but not towards a person in particular). In addition, the First Instance Court had sentenced the defendant to the loss of his civil and political rights (notably the right to be elected and to sit in representative bodies) for 5 years. Lastly, on the civil level, the Court had condemned the defendant to pay a lump sum of 1,000 Euros to the Centre for Equal Opportunities and Opposition to Racism.

Decision of the Court: In appeal, the defendant did not appear. The Court confirmed the above-mentioned ruling, noting that filmed sequences of the installation of Charleroi city council showed Olivier Delcourt taking oath with his arm raised to the vertical and wearing a black glove. According to the Court, this constitutes an intentional reference to the Nazi salute, which was knowingly carried out in a public place with the intention to stir up hatred, discrimination, violence or racial segregation. The gesture is unambiguous, since the mayor invited



the defendant to take oath again and the room expressed its total disapproval with the defendant's behaviour. The Court further noted that the defendant showed his endorsement of the Nazi regime with the following remark, intended for a member of the prosecution office of Charleroi: "Sir, your place is in the camps".

Consequently, the Court confirmed the first instance decision except as to the fine which it increased to 2,200 Euros "in order to take account of the completely unacceptable nature of the message that this individual gesture conveys, of the sinister values that it exhorts and of the attack carried by its publicity on the dignity of an assembly concerned with life in society". The Court finally held that the loss of the defendant's civil and political rights is "essential in order to protect the society from behaviours that are likely to endanger the rule of law aimed at protecting everyone's fundamental rights and freedoms".