



## NEWS REPORT

<b>Date:</b>	9 December 2010
<b>Expert:</b>	Neža Kogovšek
<b>Title:</b>	Hate Crime Case Concerning Sexual Orientation
<b>Country:</b>	Slovenia
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Three perpetrators of homophobic crime convicted by a Slovenian criminal court.
<b>Ground of discrimination:</b>	Sexual orientation
<b>Source:</b>	National court decision
<b>Field:</b>	Other (hate crime)
<b>Legislative provisions:</b>	Article 297, paras. IV and I, of the Criminal Code.

### Content

**Case:** On 25 June 2009 a group of perpetrators dressed in black hoods, caps, and masks, with torches, stones and parts of asphalt in their hands went to the Open Café in Ljubljana which is known as gay-friendly. At that moment the bar was hosting a literature evening in the context of the Pride parade. While attacking the bar, the three defendants were screaming “*pedri*” and “*pedri hudičevi*” [“faggots”, “devil’s faggots”]. During the attack a man standing outside the bar suffered several bodily injuries. One of the windows of the bar was broken and one of the torches was thrown into the bar. Three of about eight perpetrators were identified and prosecuted, while the others remain unidentified.

**Decision of the Court:** The District Criminal Court in Ljubljana found the three defendants guilty as accomplices to a crime of public incitement of hatred, violence or intolerance, in accordance with Article 297, paragraphs IV and I of the Criminal Code, in connection with Article 20 of the Criminal Code. Each defendant was sanctioned to 1 year and six months of imprisonment. In addition to numerous witnesses, confirmation that the three masked defendants were on the scene holding the torches was obtained by DNA forensic tests and phone call reports proving that in the critical time the defendants have been communicating with each other.

During house searches in defendants homes the police discovered literature of national-socialist ideology. The Court did not accept the plea of the defendants that they were only expressing their opinion about public expression of ones sexual orientation. It found the attack as well as the equipment were organized and prepared in advanced, and accompanied with hate speech, and that a day before the attack some members of this group went to check the bar in terms of how many people would attend, if anyone had a weapon, etc. The Court however, did not find the defendants guilty of the crime of violence (Article 296 of the Criminal Code) as the elements of this crime are already subsumed in the crime of public incitement of hatred, violence and intolerance.

They were also not found guilty of the crime of causing of general danger as it was not possible to establish that it was one of the defendants who threw the torch into the bar. The judgment is not final yet as the defendants filed the appeal to a Higher Court.