

Arrêt of 16 March 2006

1) Reference Details

Jurisdiction: Tribunal Correctionnel, Brussels, Belgium

Date of Decision: 16 March 2006

2) Facts

This case concerned an action by the public Prosecutor and civil parties - the Centre for Equal Opportunity and the Fight against Terrorism and the Coordination Committee of Jewish Organisations in Belgium - against Mr AC, an airport baggage handler, who was accused of violations of the Law of 30 July 1981 for the repression of certain acts inspired by racism or xenophobia. Mr AC was accused of having, on at least three occasions, incited discrimination, segregation, hatred and violence towards a group, community or their members on the grounds of race, colour, ancestry, national or ethnic origins, contrary to article 444 of the Penal Code. In particular on the 3 January 2002 Mr AC is accused of having affixed to various pieces of luggage bound for Tel Aviv the following phrases: "Dirty dog people", "People of Judah your hour is near", and "rotting *Sharonian*".

A number of incidents were at issue, with the accused insisting that he did not commit the acts. A graphologist established that the incidents of the 3 January 2002 appeared to be the same handwriting as Mr AC, whilst the other two incidents did not. Mr AC eventually admitted to the incidents of the 3 January 2002 but continued to deny the others. Mr AC declared that his acts were spontaneous, and he could not explain them, except by his shock over television reports on the Israeli-Palestinian conflict. He furthermore expressed regret for his actions.

3) Law

- Law of 30 July 1981 for the repression of certain acts inspired by racism or xenophobia
- Article 444 of the Penal Code

4) Legal Arguments

Mr AC expressed his regret and insisted that it was an isolated and spontaneous action which he was deeply sorry for.

5) Decision

The Court maintained that such acts were absolutely inadmissible in a democratic society which guarantees freedom and security for all persons in its territory. The acts of Mr AC constituted an unacceptable attack on essential values and respect for security, freedom, dignity, and religious convictions. It also constituted incitation to genocide. The court stated the importance of imposing a heavy sentence bearing in mind the gravity of the offence and the need to dissuade from recidivism. However, the court went on to consider, in this particular case, the regret expressed by the defendant, the apparent comprehension by the defendant of the gravity of the offence, the isolated character of it, and the absence of any prior offences. The Court therefore announced the suspension of the pronouncement of the sentence for five years and the payment of a fine of €157.50 to the Special Fund for the Aid of Victims of Intentional Violent Acts. Additionally the defendant was ordered to pay a symbolic fine of €1 each to the Centre for

Equal Opportunity and the Committee of Jewish Organisations in Belgium, as well as their legal expenses.