



Judgement

Europe v Slavakino et al
[2020] Del 1

1 Notes

Judgement given 21 February 2020. The Delegate acted sua sponte under inherent authority at executive discretion.

Charges dismissed. No hearing conducted.

2 Opinion

The Delegate (Imperium Anglorum).

- [1] Customary law permits a recipient of delegated judicial powers to remove a nation from the region for next to any reason. Statutory law limits this to removing nations only for cause.¹ This authority is exercised usually against non-electors and suspected puppets. This case however moves into strong focus on important questions related to speech.
- [2] Previously, in August 2018, Slavakino was banned from Europe's Discord server—Eurocord—for homophobic, transphobic, and racist remarks that both trivialised LGBT struggles and incited bullying and the use of state action against LGBT people (inter alia).
- [3] The questions here are two-fold. First, does a ban from Eurocord also entail a ban from the region? Second, does the content message of (a) posting without comment a small child crying in a semi-suicidal manner or (b) expressing the belief that LGBT persons suffer from a vague and undefined mental illness merit a ban?
- [4] To the first, I must answer no. This is for three reasons. Primo, the administration of the Discord does not operate in a manner amenable to the kind of process expected by the region. Secundo, the Discord necessarily does

not have the ability to tightly link between NationStates nations and Discord accounts. It could be possible in some cases for someone to be impersonated absent a cohesive framework against this. A person's right to process would demand separation of the jurisdictions. Tertio, the rules on the Discord are administered in a manner very different from that on NationStates. NationStates' moderation staff provides a valuable service. Moreover, Discord conversations require significantly more context to adequately understand. Similarly, rules are looser and more strict in different ways. All of these argue against any kind of 'permanent equivalence'.

- [5] To the second question, part (a), the video—shocking to some—was posted without explanatory comment; one could interpret it in a manner poking fun at the person depicted.² It was also soon thereafter deleted after protest from other members. Slavakino also admitted in repeated posts that the subject matter was not age appropriate and accepted responsibility for misjudging the environment in which it was posted. With this in mind, such activity—even if it were objectionable in the first instance—is recognised by Slavakino as unsuitable and does not seem likely to be repeated.
- [6] Due to the emergence of the young boy depicted in the video as a cause célèbre in Australia, its emergence as a compelling depiction of the consequences of bullying, Slavakino's reasonably rapid retraction of the video link, his recognition of the video as unsuitable for the RMB audience, and his admission that he had misjudged the audience, I am very unwilling to assign punitive measures for this particular action.

- [7] Continuing on the second question with part (b), the remarks quoted are fundamentally

¹ Nb Government Act 2017 s 7(a) requires merely that cause be established. The best interpretation is that a reason must be expressible. It does not require that the justification pass scrutiny unless appealed against.

² Slavakino RMB posts at [10], Document 1.

content questions and not expressed with derogatory language. Certainly, some of the posts made by Slavakino on Eurocord are of a derogatory nature. My view is that, in light of the general demeanour of those Eurocord posts, some interlocutors imported an imputed tone to the regional message board.

- [8] In light of the excerpted Eurocord posts,³ a reasonable person could expect that the imputed tone crosses over. On first glance related only to the most recent postings in late February, it seemed at first this imputed tone was unjustified. However, in light of remarks made last year in late November and remarks which earned a mute from the Moderation Committee in early February,⁴ this penchant to bring up and express in a manner with derogatory language this topic repeatedly does not seem to have been reduced.
- [9] It is this where my decision is rooted. There does not seem to be any improvement as to Slavakino's behaviour in his time so far. In fact, given the relatively non-problematic record on the site before late 2018 (remarks on Discord being separate from those on-site), things appear to have got worse since his Discord privileges have been revoked. One would have hoped that he would learn from that. It does not appear that was the case.
- [10] With that in mind, I order the Slavakino be banned from the region for a period not to exceed six months.
- [11] It is true that the consequences of the Mute Order 2020 do not seem to have been adequately heeded. However, the short and unspecific drafting of that order may be contributory. To that end, Moderation Committee ought to take more time to explain their actions and provide specifics as to what behaviour they find to be objectionable.
- [12] Some other behaviour also seems to have been caught up in this trawl. The nation 'The Oriental Empire' acted wilfully to 'aggrovate [sic]' Slavakino to say things that could have got him banned.⁵ While it does not appear there was much engagement between Slavakino and The Oriental Empire after this plan was concocted, I frown upon it strongly. Dishonest engagement of this sort, to stir up trouble for the purposes of inciting judicial action, violate
- something of a dirty hands doctrine.⁶ His participation in the political campaign to have a banhammer swung is not unnoticed.
- [13] The complaint is solid, however, but to avoid merely rewarding such dishonourable tactics, employing inherent authority, I order 'The Oriental Empire' to refrain from making posts on Europe's RMB for seven days with the standard enforcement mechanism set forth in the RMB Moderation Act 2019. An explicit order at executive discretion will be promulgated forthwith.
- [14] This decision against Slavakino may be appealed against to the European Parliament on motion of privilege or to the Founder directly. To overrule this decision, the European Parliament merely must pass a motion overturning this decision while meeting the statutorily required 10 per cent quorum requirement. That motion may be proposed by any member of the Commission or executive.
- [15] The decision portion related to 'The Oriental Empire' may be appealed to the Founder only.

³ Slavakino Eurocord posts, Document 2.

⁴ Mute Order 2020.

⁵ Other selected Eurocord posts at [1]–[2], Document 3

⁶ For more information, see 'Clean hands', *Oxford Dictionary of Law* (2009) (noting 'he who comes to equity must come with clean hands, ie a person who makes a claim in equity must be free from any taint of fraud with respect to that claim. For example, a person seeking to enforce an agreement must not himself be in breach of [it]').

3 Documents

3.1 Slavakino RMB posts

Edited lightly from originals. A mute was applied to Slavakino on 7 February 2020.⁷

¶	Text	Post ID	Date
[1]	Galway-Dublin:— Yeah and once we get hormones and support from our families, suicide rates drop substantially, of course people are going to take their own lives when the world around them refuses them any form of support. There is a cure, it's compassion. The cure is go to a mental hospital	37045869	2019-11-29
[2]	Republic of Satherland:— Like I said, I don't give a rat's a*se about your opinions on LGBTQ people. Believe whatever the hell you want, but don't come along and start talking sh*t about LGBTQ issues in front of LGBTQ individuals and saying that we need psychiatric help. I'm sure that there are many right-wing cesspits for you to talk freely on these topics with without hurting anyone. Well no I'm concerned about the LGBT people and only wish to cure them. Also im not even right wing	37045869	2019-11-29
[3]	I mean throwing into mental hospitals as treatment for their condition, if you want edgy look at people who prefer the bullet treatment.	37046005	2019-11-29
[4]	I'm only saying that due to neurological reasons that a transgender person does not think correctly	37566173	2020-02-06
[5]	... it [homosexuality] is counted as a mental illness and instead of what I see a disgusting way if [recte of] ruining anyone's life why don't we treat it barely and steadily [sic]	37566387	2020-02-06
[6]	The Oriental Empire:— So you don't see any thing wrong with claiming that LGBTQ+ people are mentally ill No.	37566805	2020-02-06
[7]	I'm attempting to put out a theory and have a reasonable debate about how we can help and cure this illness.	37668380	2020-02-18
[8]	I dont have grudges on any gay or trans people. I just believe that some anomaly in their mind that causes for this to happen.	37668396	2020-02-18
[9]	No, its not about minorities. Its about how they think, its against the rules of how reproduction does.	37668501	2020-02-18
[10]	Viral video of a 9 YEAR OLD with dwarfism being bullied to the point of near suicide iURL redacted.¿	<i>Self-deleted.</i>	2020-02-21

⁷ Mute Order 2020 (n 4.)

3.2 Slavakino Eurocord posts

Edited lightly from originals. Note that ¶ in text represents responses omitted between other remarks or a new message. Eurocord is Europe's Discord name.

¶	Text	Date
[1]	Look I don't like gays or anyone associated in LGBT ¶ And I call Trannys [i]t ¶ ... every gay person [I]ve met are [sic] fucking dickheads	2018-06-12
[2]	why i'm I seeing so many trans flags? ¶ ban trans ¶ save the world	2018-07-06
[3]	yeah i support LGBTQ ¶ Lets [go] ¶ Bully ¶ The ¶ Queers	2018-06-30
[4]	I dont like the psychology of gays ¶ doesn't seem right	2018-06-12
[5]	It says he was prosecuted for being gay ¶ thats funny	2018-07-23

3.3 Other selected Eurocord posts

Edited lightly from originals. Note that ¶ in text represents responses omitted between other remarks or a new message.

¶	Author	Text	Date
[1]	The Oriental Empire	this is a team building exercise ¶ How well can Europe obliterate slavakino?	2020-02-18
[2]	"	Goal : aggrovate slavakino to a point where he says ban-nable stuff	"