DATABASE 2012-2024 ON ANTI-MUSLIM HATRED

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Luxembourg	2022	Luxembourg/First Instance Court of Luxembourg City/no. 1005/2022	https://anon.public.lu/D%C3%A9cisions%20anonymis%C3%A9es/Tribunal%20d%27arrondissement%20Luxembourg%20p%C3%A9nal/19_Chambre%20correctionnelle/2022/20220325_TAL19_1005_pseudonymis%C3%A9-accessible.pdf	Racial or ethnic origin	First Instance Court of Luxembourg City (nineteenth chamber) [Tribunal d'arrondissement de Luxembourg (dix-neuvième chambre)]	On the 6th of July 2019, the Anti-Terrorist Section of the Judicial Police Service was informed of the existence of a comment on Facebook which contained xenophobic remarks. The comment related to an article published on the Facebook page of «RTL Lëtzebuerg». The investigation later revealed that the Facebook profile associated with the comment belonged to the defendant. The comment read "In my younger years I was stationed in Saudi Arabi, in Libya and in Bahrein. These people are not like us, they are like monkeys. I was there for 3 years; I know what I'm talking about." The accused admitted to having made the comment and declared that, when using the expression "like monkeys", he was referring to refugees. The comment was visible to all Facebook users.	The Court concluded that the defendant had committed a crime of incitement to hatred or violence under articles 457-1 and 454 of the Criminal Code. As such, the defendant was convicted to a sentence of imprisonment of six month and to a €1,000 fine.	In view of the fact that the defendant qualifies refugees as being "like monkeys", the Court considers that his comments were aimed at a group of persons on the basis of their origin. Furthermore, it concludes that, given the unambiguous and degrading terms that were used, the comments constitute messaging likely to provoke feelings of deep dislike, contempt, rejection and hostility towards refugees among the public. Finally, the Court declares that, by publishing an abject comment on Facebook, aimed at refugees, saying that these are not human beings but monkeys, his aim none other than to provoke a feeling of hatred towards refugees.	In its reasoning, the Court interprets the constituting elements of the crime of incitement to hatred or violence. Firstly, the controversial statement must be public. This includes comments freely accessible to any Facebook user. Secondly, the statement needs to be of such a nature as to cause hostility or rejection. The writings must therefore be likely to cause hatred against those targeted, i.e. a violent feeling of wanting to harm or a deep dislike, contempt, rejection and hostility. Thirdly, the statement needs to be aimed at a person, a group or a community because of one of the protected characteristics referred to in Article 454 of the Criminal Code relating to discrimination. Fourthly, there needs to be a deliberate intention of the perpetrator to provoke a reaction of hatred in the public mind based on a discriminatory motivation.	"L'auteur doit avoir la volonté délibérée de provoquer dans l'esprit du public une réaction de haine ; il doit avoir agi avec une volonté discriminatoire consistant dans un dol spécial. En effet, en publiant sur Facebook un commentaire abject, visant les réfugiés, consistant à dire que les réfugiés ne sont pas des êtres humains mais des singes, le but de PREVENU1.) n'était autre que de provoquer un sentiment de haine envers ces derniers. (...)" "The perpetrator must have had the deliberate intention to provoke in the public mind a reaction of hatred; he must have acted with a discriminatory intention consisting in a special intent. Indeed, by publishing on Facebook an abject comment, aimed at refugees, consisting of saying that refugees are not human beings but monkeys, DEFENDANT1.)'s aim was none other than to provoke a feeling of hatred towards the latter. (...)"

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