

Database 2012-2019 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	MAIN REASONING / ARGUMENTATION	KEY ISSUES (CONCEPTS, INTERPRETATIONS) CLARIFIED BY THE CASE	RESULTS (SANCTIONS, OUTCOME) AND KEY CONSEQUENCES OR IMPLICATIONS OF THE CASE	KEY QUOTATION IN ORIGINAL LANGUAGE AND TRANSLATED INTO ENGLISH WITH REFERENCE DETAILS
Austria	2013	Austria / Higher Regional Court Innsbruck/ 11Bs110/13h ECLI:AT:OLG 0819:2013:0110 BS00110.13H.0430.000	http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JIT_20130430_OLG0819_0110BS00110_13H0000_000	Ethnic origin	Higher Regional Court (Oberlandesgericht)	The case concerns online incitement to violence or hatred. More concretely, on 25 April 2012 the defendant made comments on facebook and other social media networks as follows	The Higher Regional Court of Innsbruck found that the defendant's statement in social networks did not constitute unlawful speech as it did not exceed the boundaries provided by law. According to the Court, the defendant has not attempted to bring a group (Turks) in contempt by hating or insulting them in a manner that violates human dignity. Bringing someone in contempt is if a person presents another person as unworthy or undeserving, thus exposing him/her to their contempt, whereby the perpetrator must act with (at least) a	One of the key issues is about whether the defendant's despicable statement constitutes incitement to violence or hatred. According to the Higher Regional Court of Innsbruck, the defendant has not exceeded the boundaries of a 'qualified libel' within that meaning.	The Higher Regional Court of Innsbruck acquitted the defendant of charges related to the crime of incitement to violence or hatred according.	Im gegebenen Zusammenhang werden in erster Linie wörtliche Beschimpfungen in Betracht kommen, denkbar sind aber auch solche in Form bildlicher Darstellungen. Das Beschimpfen muss jedoch in einer die Menschenwürde verletzenden Weise erfolgen. Die Menschenwürde wird verletzt, wenn durch die Tathandlung den Angehörigen der angegriffenen Gruppe unmittelbar oder

[roughly translate d:]
"Why are there no sperm donors in Turkey? Because all the jerks are here with us."

conditional intent (dolus eventualis).

mittelbar das Recht auf Menschsein schlechthin abgesprochen wird, indem ihnen etwa das Lebensrecht als gleichwertiger Bürger bestritten wird oder sie als minderwertige oder wertlose Teile der Gesamtbevölkerung dargestellt werden, oder wenn sie sonst einer unmenschlichen oder erniedrigenden Behandlung unterworfen werden. Richtet sich der Angriff bloß gegen einzelne Persönlichkeitsrechte (z.B. die Ehre), so wird damit noch nicht die Menschenwürde verletzt. Maßgebend ist vielmehr, dass die der betreffenden

Gruppe angehörenden Menschen im unverzichtbaren Kernbereich ihrer Persönlichkeit getroffen

werden.

In the present context, verbal insults are considered at first, however pictorial representations are conceivable as well. The insult has to be undertaken in a manner which infringes human dignity. The human dignity is infringed if the right to humanity is directly or indirectly denied to the members of the attacked group by denying, for instance, their right to life as an equivalent citizen or are presented as inferior or worthless parts of the total population, or if they are subjected to other inhumane or degrading treatment. If the attack is directed only against individual personality rights (for example, honor), the human dignity is not yet infringed. What is decisive

									is rather that the people belonging to the group in question are affected in the indispensable core of their personality.
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