

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
Portugal	2012	Portugal / Supreme Court of Justice / Case no. 48/12.2YREVR.S1	http://www.dgsi.pt/jsti.nsf/954f0ce6ad9dd8b980256b5f003fa814/727e7cfb94eb21b080257a45002f6679?OpenDocument	Racial or ethnic origin, Nationality, Religion	Supreme Court of Justice	A German citizen was sentenced in Germany to 2 years and 9 months in prison for turmoil against segments of the population, including racism, xenophobia and insult to religious communities. The Portuguese Supreme Court of Justice decided about the execution of a European Arrest Warrant issued by a German Court which concerned a conviction relating to Holocaust denial. This conduct is defined in Article 240 (2) (b) of the Portuguese Penal Code as a denial of a crime against humanity. The court decided against the applicant's appeal, ordering his extradition to Germany. The applicant requested political asylum.	The court denied the applicant's claim, maintaining the decision of his extradition to Germany.	The applicant argued in defence of his non-extradition to Germany: (i) that there is no freedom of expression in Germany; (ii) that he is politically persecuted in Germany; (iii) his connection to the Portuguese State. The Supreme Court of Justice considered that the conduct that denies the existence of war crimes or against peace and humanity cannot fall into the protective scope of the freedom of expression. The court also considered that extradition would not amount to a breach of the applicant's connection to Portugal which deserved a special consideration.	Freedom of expression cannot prevail when its exercise violates other values and interests protected by law. These values arise from the need to defend legal values established in the constitutional order and to safeguard values which are fundamental for the legal community of which Portugal is a member, in particular the European Community.	"A liberdade de expressão não é, não pode ser, a possibilidade de um exercício sem quaisquer limites alheio à possibilidade de colisão com outros valores de igual ou superior dignidade constitucional. Em Portugal, tal como na Alemanha, existem limites ao exercício do direito de exprimir, e divulgar, livremente o pensamento, e a sua violação pode conduzir à punição criminal ou administrativa. Esses limites visam salvaguardar os direitos ou interesses constitucionalmente protegidos de tal modo importantes que gozam de protecção, inclusive, penal". "Freedom of expression is not, it cannot be, exercised without limits especially when it collides with other values of equal or superior constitutional weight. In Portugal, as in Germany, there are limits to the exercise of the right to express and freely disseminate one's thought, and their violation may lead to criminal or administrative punishment. These limits are intended to safeguard the constitutionally recognised rights or interests which are so important that they enjoy protection, including protection by criminal law."

DISCLAIMER The information presented here is collected under contract by the FRA's research network FRANET. The information and views contained do not necessarily reflect the views or the official position of the FRA.

<http://fra.europa.eu/en/databases/anti-muslim-hatred/>

Copyright © 2026 European Union Agency for Fundamental Rights