

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
Belgium	2015	Belgium / Tribunal of First Instance of East-Flanders section Gent/ GE56 L2 3657/14/sw3	https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/correctie-rechtbank-gent-2-februari-2015	Religion	Tribunal of First Instance of East-Flanders section Gent (Rechtbank van eerste aanleg Oost-Vlaanderen afdeling Gent)	In 2015, the Tribunal of Gent convicted a man for harassment and discrimination because he ordered and distributed flyers, the painting of slogans on the road, and the hanging up of posters with discriminatory messages such as "STOP ISLAM", "NO JIHAD IN OUR STREET" and "STOP THE RITUAL HALAL SLAUGHTER = 100% BARBARIC". The defendant invoked his freedom of expression, but the Tribunal argued that such freedom is limited by the respect of the constitutional freedoms of others.	The accused is sentenced to one hundred and sixty hours of community work and to pay 494,45 euro of compensation fee.	The accused argued that he was using his right to freedom of expression. The Tribunal said that he cannot rely on freedom of expression. The latter is limited by the constitutional freedoms of others. In this case, it was limited by the freedom of religion, criminal law, and anti-discrimination law. Based on Article 22 of the law of 10 May 2007 on anti-discrimination, the Tribunal found the accused guilty of discrimination, any form of intentional direct discrimination, intentional indirect discrimination, order of discrimination and harassment on the ground of belief or philosophical convictions	One cannot rely on freedom of expression in the case of hate speech. Freedom of expression is limited by the constitutional freedoms of others, like freedom of religion, and criminal law.	"The messages on the streets, the posters, the stickers and banners incite discrimination - this is a rejection, a disadvantage and a negative treatment - towards a group (muslims) on the basis of their religious belief. The message calling on restricting or prohibiting their constitutional rights to freedom of religion. In view of the declarations of the accused and the above findings, such as the dissemination by him as the leader of (...) of the press releases, there is no doubt that he has spread and helped the spread of those messages. The accused cannot be believed when he says he only hung a few banners and posters. The accused cannot rely on the freedom of expression. That freedom is limited by the constitutional freedom of others and by the criminal law, in this case the anti-discrimination law." "De boodschappen op de straten, de affiches, klevers en spandoeken beogen de discriminatie - dit is een verwerpende onderscheiding, een ongelijke behandeling — van een groep (moslims) omwille van diens geloofsovertuiging. De boodschappen roepen op om de grondwettelijke vrijheid van erediens te beperken of te verbieden. Gelet op de verklaring van de beklaagde en op de bovenstaande vaststellingen, zoals de verspreiding door hem als actieverantwoordelijke van (...), van de persmededeling, lijdt het geen twijfel dat hij mede die boodschappen heeft verspreid en helpen verspreiden. De beklaagde is ongelofwaardig wanneer hij zegt enkel de spandoeken en affiches te hebben gehangen. De beklaagde kan zich niet beroepen op de vrijheid van meningsuiting. Die vrijheid wordt immers begrensd door de grondwettelijke vrijheden van anderen en door de strafwet, in deze de Antidiscriminatiewet."

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

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