

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
United Kingdom	2015	United Kingdom // R v. O'Leary [2015] EWCA Crim 1306	http://www.bailii.org/ew/cases/EWCA/Crim/2015/1306.html	Racial or ethnic origin	England and Wales Court of Appeal	Over the course of one evening the appellant repeatedly intimidated two victims causing them physical injuries and psychological harm. During one attack, while brandishing a knife, the appellant told his victim that he wanted to kill a Muslim. The appellant was convicted of unlawful wounding but not racially aggravated unlawful wounding. In his sentencing however, the trial judge made specific reference to the significant psychological harm caused to the victim due to the racial nature of the threat to him. Accordingly, he raised the starting point for sentencing.	The court held that there was clear evidence on which the trial judge had been entitled to conclude to the criminal standard that the offence was racially motivated. Accordingly, the trial judge was entitled to treat the racial motivation as a factor that increased the seriousness of the offence and thus led to a higher sentence. The court was conscious however to highlight that its judgement was not an endorsement of the view that the prosecution had been relieved of their duty to consider the indictment. Owing to the seriousness of racially aggravated offences, in the majority of cases where the evidence supports an aggravated element the prosecution should place it on the indictment.	Owing to the fact he had not been convicted of a racially aggravated offence, the appellant argued that the trial judge should not have been able to treat racial motivation as a factor which elevated the seriousness of his offence and thus increased the sentence he received.	In cases where a defendant has been convicted of an unlawful wounding without a racially aggravating factor, a sentencing judge can take into account racial motivation as a factor that elevates the seriousness of the offence and thus can increase the sentence.	"We have considered whether in addition to these factors, and in the absence of a conviction for racially aggravated unlawful wounding, the judge was entitled to take into account, as a further factor increasing the seriousness of the offence, that it was racially motivated ... Our conclusion upon this issue should not be taken as any endorsement for the view that the prosecution are thereby relieved of their duty to consider the indictment with care. On the contrary, in the majority of cases where the evidence supports an aggravated form of assault, then it should be placed upon the indictment."

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