

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	2016	Luxembourg / Court of Appeal (5th Chamber), Case no. 596/16 V / Judgement / The Public Prosecutor v. A.		Religion, Racial or ethnic origin	Luxembourg Court of Appeal (Cour d'appel)	Between October and November 2015, the accused distributed flyers in several municipalities in Luxembourg containing hate speech messages inciting to hatred against foreigners living in Luxembourg. Migrants in general, and Muslims in particular, were accused of destroying the country and its natural resources, negatively affecting Luxembourgish citizens' rights and living conditions. These groups were also accused of being responsible for the "end" of the Luxembourgish school system. The case was first reported by the Luxembourg Judicial Police.	The accused was convicted in the Court of first instance (judgment 1579/2016 of 26 May 2016) and sentenced to eight months of prison. The accused then appealed the decision and the Court of appeal transformed the sentence into a 7000 euro fine.	The accused argued that he was acting in accordance with the law, in particular within the framework of the right to freedom of opinion and expression as set forth by Article 10 of the European Convention on Human Rights (ECHR). Furthermore, he claimed that his accusations were directed against the Luxembourgish authorities and their policies, and not against migrants. The court (both in first instance and in the court of appeal) dismissed his arguments and held that the messages distributed on the flyers were clearly directed against migrants in general, and against the Muslim community in particular, and consequently violated article 457-1 of the Criminal Code (incitement to hatred or violence).	Broad interpretation made of Article 457-1 of the Criminal Code, which covers racist and xenophobic comments. Both the court of first instance and the court of appeal do not consider Article 10 of the ECHR, regarding freedom of expression, to have been breached.	"Les propos de A sont assurément de nature à donner une image inquiétante de la communauté musulmane dans son ensemble, ainsi que de la population étrangère en général, et à susciter, particulièrement parmi le public le moins averti, un sentiment de rejet, d'antagonisme et d'hostilité." "A's remarks are certainly likely to draw a disturbing picture of the Muslim community as a whole, as well as of the migrant population in general, and to arouse, particularly among the less informed public, a feeling of rejection, antagonism, and hostility."

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