

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
Hungary	2017	Hungary / Curia/Bty.1.1.722/2016.	https://kuria-birosag.hu/hu/sajto/tajekoztato-kuria-btyi17222016-szamu-jeleltos-ugyben-hozott-hatarozatrol	Racial or ethnic origin	Curia	An asylum-seeker from Ivory Coast was walking to the train station when the perpetrators, two Hungarians, shouted at him „Black man, go back to Africa! This is Hungary, not Africa!” and started to beat him. The victim ran away and grabbed a slat of wood for his defence. The perpetrators found him, took the slat of wood away and hit him with it until he lost consciousness. They placed the victim on the railway for a while but later put him back at the station. The first instance court found the perpetrators guilty of public nuisance. The Curia examined an appeal against the decision of the first instance court.	The first instance court claimed that the perpetrators did attack the victim with a racist motive but when they got injured as well in the fight, their motive was not based on hatred but on revenge. Therefore, it only found them guilty of public nuisance. The Curia overruled the judgment of the first instance court and found the perpetrators guilty of committing violence against a member of the community by carrying a deadly weapon (216. § of the Criminal Code of Hungary). By this judgment, the Curia emphasised the hate crime motive in the acts and statements of the perpetrators. By adding this aggravating circumstance, the perpetrators received a heavier sentence, two years of imprisonment.	The Curia argued that in order to define the crime, the motive has to be identified by the statements, reactions and acts of the offenders. It argued that their violent act was motivated by racial hatred, which –contrary to the first-instance court’s reasoning– did not “cease” and changed into a feeling of revenge once they were injured by the victim. It is irrelevant that parts of the acts were motivated because of revenge if the main motivation of the perpetrators was the victim’s racial origin. The Curia concluded that the crime was hate/prejudice based and thus overruled the first decision by aggravating the crime to “violence against a member of a community”.	One of the key issues of the case was to assess whether in a case which at first was motivated by racial hatred, could other parts of the acts be motivated by other sentiments such as revenge, and whether the hatred element can be eliminated from the motives at all.	“A közösség tagja elleni erőszak bűntette más bűncselekményekhez, így a garázdasághoz, tettesleges becstelenségtől, kényszerítéshez képest speciális vagy kiemelt tényállás. Az emeli ki ebből a bűncselekményi körből, hogy a cselekmény indítéka, motivuma a passzív alany valamely csoporthoz tartozása (gyűlölet- vagy előítéltségi motívum).” “Violence against a member of the community” is a unique or a key provision compared to other criminal acts as “public nuisance”, “slander”, or “duress”. The motive of the criminal act is the victim’s belonging to a particular group itself (motive of hate or prejudice), which is the ground of this provision’s uniqueness.” (Press release of the Curia at 10 July 2017. Available at: https://kuria-birosag.hu/hu/sajto/tajekoztato-kuria-btyi17222016-szamu-jeleltos-ugyben-hozott-hatarozatrol)

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