DATABASE 2012-2024 ON ANTI-MUSLIM HATRED

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	2017	Luxembourg / Court of Cassation / Case no. 58/2017 (3868)	https://justice.public.lu/content/dam/justice/fr/jurisprudence/cour-cassation/penal/2017/10/3868/PENAL20171026_3868a-58.pdf	Religion, Racial or ethnic origin	Court of Cassation (Cour de Cassation)	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 by 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 euros fine (judgment no. 596/16 V of 6 December 2016). The judgment was then upheld by the Court of Cassation.	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 government's immigration policies, and not against migrants. The courts (i.e. first instance, court of appeal and court of cassation) 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 xenophobe comments. All three instances confirmed that the conviction of the accused for violation of article 457-1 of the Criminal Code (incitement to hatred or violence) had not been in breach of the accused's fundamental right to freedom of expression as set forth by Article 10 of the ECHR.	"Les propos de X 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. Travesti sous l'apparence d'une critique politique du gouvernement, qui rentrerait dans l'exercice de la liberté d'expression, le pamphlet, pris dans son intégralité, contient en dehors de cette critique également des propos stigmatisant les étrangers, […]." "The words of X are certainly likely to give a disturbing picture of the Muslim community as a whole, as well as of the foreign population in general, and to arouse, particularly among the least informed public, a sense of rejection and antagonism and hostility. Under the guise of a political criticism of the government, which would fall within the exercise of the freedom of expression, the pamphlet, taken in its entirety, contains besides this criticism also remarks stigmatizing the foreigners, […]."

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