

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
Austria	2018	Austria / Supreme Court / 150533/18x ECLI:AT:OGH0002:2018:850132087	https://www.ris.bka.gv.at/Dokumente/justiz/JIT_20180523_OGH0002_01500500033_18V0000_000/JIT_20180523_OGH0002_01500500033_18V0000_000.pdf	Religion, Migrant status	Supreme Court (Oberster Gerichtshof)	The case concerns online incitement to hatred and violence. From March to July 2016, H. F. posted several statements against persons seeking international protection and persons who follow the Islamic faith on Facebook. These comments included prejudice, slander and verbal abuse and were visible for at least 1.094 Facebook users. The public prosecutor's office discontinued the investigation proceedings against him, because the statements would not amount to incitement to hatred according to the public prosecutor's office. The General Procurator's Office filed a nullity appeal for observance of the law against the public prosecutor's decision.	The Supreme Court found that the statements posted on Facebook do amount to incitement to hatred against refugees and Muslims. The defendant described the groups in question generally as, for instance, "brutal invaders" who "want to finance their life at our expense, hate us and impose their medieval ways of life" and do not have a "feeling for normal human values", so that they have to be met with "far more brutal force". These expressions aim to cause negative emotions based on a bipolar pattern of interpretation ("we" - "you"). This is further underlined by the emotionalizing wording ("2-fronts war", "enslavement") and typeface (distinctive use of exclamation marks and capitalization).	The Supreme Court found that the statements posted on Facebook do amount to incitement to hatred against refugees and Muslims. The defendant described the groups in question generally as, for instance, "brutal invaders" who "want to finance their life at our expense, hate us and impose their medieval ways of life" and do not have a "feeling for normal human values", so that they have to be met with "far more brutal force". These expressions aim to cause negative emotions based on a bipolar pattern of interpretation ("we" - "you"). This is further underlined by the emotionalizing wording ("2-fronts war", "enslavement") and typeface (distinctive use of exclamation marks and capitalization).	Statements such as the ones posted by the defendant on Facebook do amount to incitement to hatred pursuant to § 283 Criminal Code.	"Die [...] rechtliche Beurteilung, die Äußerungen stellen weder ein Auffordern zu Gewalt noch ein Aufstacheln zu Hass dar (§ 283 Abs 1 Z 1 StGB), erweist sich jedoch als verfehlt." "The legal assessment [...] according to which the statements neither constitute a call for violence nor incitement to hatred (§ 283 Abs 1 Z 1 of the Austrian Criminal Code), prove to be wrong."

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

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