

## **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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      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| Belgium      | 2018 | Belgium / Court of First Instance of Brussels / Judgment number 2018/6234 - Roll number 18F033246 - System number 16883630 | <a href="https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/correctiebank-brussel-20-november-2018">https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/correctiebank-brussel-20-november-2018</a> | Religion, Racial or ethnic origin | French-speaking Court of First Instance of Brussels, 61st penal chambre (Tribunal de première instance francophone de Bruxelles, 61e chambre correctionnelle) | <p>A female pharmacist is asked in a very aggressive tone by a client to give more information about a prescription he had received ten days earlier from one of her colleagues. During her reply, the pharmacist is interperuted by the client who says he does not want to talk to her but to someone else, because "with the thing you wear on your head, you are not a scientist". The pharmacist wears a veil at work and has never had any problem with other customers or her colleagues. The pharmacist's manager intervenes to defend her employee. The client replies that the manager is an accomplice to let "such people" work here and the woman should go to Saudi Arabia or Qatar. The woman is scared what the client might do to her in the future and fears for her physical integrity. She files a complaint.</p> | <p>The defendant is found guilty. In determining the punishment to impose, the Court took into account the defendant's unacceptable behaviour, his total absence of regrets and his attitude during the court procedures, which demonstrate that he still minimizes the facts and pities on his personal case, as well as his lack of a criminal record. The Court hoped that the punishment will be of such a nature to make the defendant truly aware of the fact that his remarks about the victim are not tolerable in society. The Court condemned the defendant to a fine of 900 euro (to be replaced by a subsidiary imprisonment of 15 days if not paid). Additionally, he has to pay 200 euro to the Special Fund to help victims of intentional acts of violence and occasional rescuers, a compensation of 53.58 euro, 20.00 euro to the Budget Fund for second-line legal aid, and 30.87 euro for the expense of public action.</p> | <p>The defendant does not understand the complaint. He merely wanted his treatment and addressed the pharmacist in a nice way. The defendant told the police and repeated at the court hearing that he did nothing wrong. The only thing he is sorry for is that he may have spoken too loudly because he was feeling unwell. At the time, he was in distress and feeling very bad due to the chemotherapy he was receiving, yet the complainant did not act as required by a representative of the medical profession. He has no problem with her wearing a veil, so there can be no racism or hatred. The Court does not follow this reasoning. It would be surprising that the pharmacist would be unable to perceive that a customer is suffering and go through the trouble to go to the police 5 days later. The pharmacist's manager intervened because of the noise and tone and the offensive and discriminating remarks made by the defendant.</p> | <p>The defendant argued that it could not be proven that he said the things he is accused of saying by the complainant, because the pharmacist's complainant's manager did not repeat the words when she was heard in the case. The Court determined that this is not necessary, because the manager interrupted her own work to intervene, because she heard the man raise his voice and tone. It is not surprising that the manager does not remember the exact statements made by the defendant, because the facts took place in August 2016 and the manager was heard in the case only in December 2016. While not remembering the exact wording, the manager did remember that the defendant's remarks were offensive and discriminating. The Court also argued that not feeling well, does not justify the statements made to the pharmacist.</p> | <p>De plus, la responsable de la pharmacie, B. C., si elle ne répète pas les propos tenus par le prévenu, indique néanmoins qu'elle a abandonné la tâche qu'elle effectuait pour aller voir ce qu'il se passait car elle avait entendu la voix d'un homme et que le ton montait. Elle signale que les propos étaient injurieux et discriminants. D ne fait aucun doute que s'il ne s'était rien passé, elle aurait poursuivi ce qu'elle faisait et il serait très surprenant qu'elle aurait embrayé dans le sens de la plaignante. Elle aurait tout simplement déclaré qu'elle n'avait pas été témoin des faits dénoncés par la plaignante. Tel n'est pas le cas en l'espèce, bien au contraire. Il faut aussi remarquer qu'elle a été entendue en décembre 2016 alors que les faits se sont déroulés en août 2016 de sorte qu'il ne peut lui être reproché de ne pas se souvenir ni mot à mot des termes utilisés par le prévenu. 'Moreover, the head of pharmacy, BC, if she does not repeat the words of the accused, nevertheless indicates that she abandoned the task she was performing to see what was happening because she had heard the voice of a man and that the tone rose. She points out that the remarks were offensive and discriminating. There is no doubt that if nothing had happened, she would have continued what she was doing and it would be very surprising that she would have gotten in the way of the complainant. She would have simply stated that she had not witnessed the facts complained of by the complainant. This is not the case here, quite the contrary. It should also be noted that she was heard in December 2016 when the facts took place in August 2016 so that it can not be blamed for not remembering verbatim the terms used by the defendant."</p> |

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