

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
Poland	2018	Poland / Appellate Court in Gdansk / II Aka 192/18		Nationality, Migrant status	Appellate Court in Gdansk	The defendants (K.S. And M.T.) were accused of insulting and attacking citizens of Turkey because of their race and ethnicity. The defendants have mistaken Turkish exchange students for Syrian refugees. The Regional Court in Slupsk (court of the I instance) found them guilty however it did not qualify the crime as a "hate crime". The court of the II instance repealed the verdict and ordered to re-consider the case taking into account the racial background of the crime.	One of the defendants (K.S.) was found guilty by the court of the I instance and sentenced with a fine, whereas the second one (M.T.) was acquitted. The court of the II instance repealed the verdict and order to re-consider the case, considering the racial-hatred motivation of the perpetrators.	According to the Appellate Court, the court of the I instance has incorrectly assessed the circumstances of the incident and the behavior of the accused, justifying it with their state of alcohol intoxication. The Appellate Court emphasized the defendants had been aware that the victims were foreigners, the exchange students. The fact that the defendants recognized them as refugees from Syria cannot constitute a mitigating circumstance. In the opinion of the Appellate Court, the question is whether the behavior of the accused would have been the same if they had met people from the same cultural circle, not differing in skin color, clothing and language as themselves.	In order to ascribe to perpetrator the racist behavior, as referred to in Art. 257 of the Criminal Code, it does not have to be demonstrated that the accused was aware of the specific nationality of the victim.	"Aby można było mówić o zachowaniach na tle rasistowskim, o jakich mowa w przepisie art. 257 Kodeksu karnego, należy wykazać, że zachowania te miały bezpośredni związek z "innością" osób pokrzywdzonych wynikającą z ich przynależności narodowej, etnicznej, rasowej, politycznej, wyznaniowej lub z powodu jej bezwyznaniowości, bez konieczności wykazania, że oskarżeni mieli świadomość konkretnej, określonej narodowości pokrzywdzonych." "In order to ascribe to perpetrator the racist behavior, as referred to in Art. 257 of the Criminal Code, it should be demonstrated that this behavior was directly related to the "differences" of victims resulting from their national, ethnic, racial, political or religious background, without it being necessary to prove that the accused was aware of the specific nationality of the victim."

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