

## 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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| Portugal     | 2018 | <a href="#">Portugal / Guimarães Court of Appeal/Case 1132/15.6JABRG.G1</a> | <a href="http://www.dgsi.pt/jtrg.nsf/-/4EE1296D532FF5E9802582C5002D0421">http://www.dgsi.pt/jtrg.nsf/-/4EE1296D532FF5E9802582C5002D0421</a> | Migrant status, Religion | Guimarães Court of Appeal | A case about hate speech on Facebook leading to incitement to hatred. On 10 September 2015, in the context of the imminent arrival of Syrian refugees to Portugal, the defendant posted a video on his personal open Facebook page, with the following title "Be careful, bin Laden's cousin Mohammed in the area... beware". The defendant was dressed in a long beige tunic, displaying an object resembling a machine gun, and stated: "Hello Portuguese people. I am the first Syrian to arrive to Portugal and I warn you: I will fuck you all". | Since at the time of the posting of the video (2015) the crime of discrimination or incitement to violence and hatred required intent to incite racial or religious discrimination, the Appeal Court dismissed the accusation. | The prosecution considered that the video implied that Syrian refugees and people who profess the Muslim religion are violent and liable to commit terrorist acts. Having done so through his public personal page on Facebook, expressing a desire to be seen by an undetermined number of people, the defendant acted with the purpose of offending the honour, credibility, prestige and trust due to Syrian nationals as well as to those who profess the Muslim religion, thus committing a crime of discrimination and incitement to violence and hatred. Nonetheless, since, at the time (2015) such a crime required proof of intent to incite racial or religious discrimination, the accusation was dismissed. | The key issue was about whether the posting of an open online video on Facebook, that can be seen by an undetermined number of people, can be interpreted as a clear intent to incite religious discrimination as was required under article 240(2)(b) of the Portuguese Criminal Code, before the amendment of 2017. The Court decided against it. | "Exigia-se (...) dolo específico (...). O Ministério Público (...) tinha que ter dito também que o arguido (...) tinha agido ainda com o propósito de fazer com que todos os que vissem o referido vídeo excluíssem, ou sentissem vontade de excluir, os nacionais Sírios e todos os que professam a religião muçulmana da vida na sociedade portuguesa (ou expressão equivalente)."<br>"(...) a specific intent was required. (...) The prosecutor should have also said that the defendant (...) had also acted with the purpose of making all those who watched such video exclude, or feel the urge to exclude, Syrian nationals and all who profess the Muslim religion from life in Portuguese society (or equivalent expression)." |

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

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