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
Germany	2019	Germany / Higher Labour Court of Baden-Württemberg (Landesarbeitsgericht Baden-Württemberg) / 17 Sa 3/19 / ECLI:DE:LAGBW:2019:1205.17SA3.19.00	http://lrbw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&nr=30470	Religion	Higher Labour Court of Baden-Württemberg (Landesarbeitsgericht Baden-Württemberg)	The plaintiff took legal action against an extraordinary termination of his employment contract due to messages he had sent to a colleague of Turkish origin and Muslim faith. These messages included, among others, an image file shwoing a mosque under the heading "In Bavaria a mosque has been opened, and during the first prayer some Bavarians infiltrated and fired shots into the air. I am sending you this recording so you hear how the preacher has changed his prayer...", added by an audio file playing the sound of prayer chants which after being interrupted by shots change to yodelling. Another image file showed an apparently Muslim extended family under the heading 'Many Muslims take a second or third wife whereas we Germans take a second or third job to finance our lives'.	The appeal of the plaintiff was rejected.	The Court confirmed the validity of the extraordinary termination.	The State Labour Court had to examine whether the messages sent by the plaintiff constitute an important reason to justify an extraordinary termination of the contract of employment.	"Bei den oben genannten WhatsApp-Nachrichten handelt es sich um Schmähkritik, die nicht von Artikel 5 Absatz 1 GG geschützt ist. Aus Sicht der Kammer kann offenbleiben, ob diese Nachrichten als Satire einzuordnen sind. Einkleidung und Aussagekern der beiden Nachrichten beschränken sich nämlich auf eine Missachtung und Herabwürdigung von Menschen mit muslimischer Religionszugehörigkeit. Die Grenze zur Schmähkritik wird damit jedenfalls überschritten." "The WhatApp messages are abusive criticism which is not protected by Article 5 (1) of the Basic Law. From the perspective of the court chamber it can remain open whether the messages can be classified as satire. The form and the core of the content of both messages narrow down to the defiance and degradation of persons of Muslim faith. In any case, the line to abusive criticism is thus crossed. "

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