

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
Czechia	2022	Czech Republic / Constitutional Court / ECLI:CZ:US:2022:1.US.836.22.1	https://nalus.usoud.cz/Search/ResultDetail.aspx?id=1200196&pos=1&cnt=1&typ=result	Religion	Constitutional Court (Ústavní soud)	The complainant wrote an article published online titled 'Is the future of Europe Muslim?', in which he sought to incite hatred against all persons professing Islam and against all immigrants. Throughout the text the complainant purposely presents readers with a catastrophic vision of the future that he believes will occur if forceful means are not used against all immigrants. The complainant was fined by the criminal court for inciting hatred against a group of people.	The Constitutional Court upheld the decision of the Supreme Court. It stated that the legal admissibility (and constitutional protection) of hate speech must be inferred primarily from their context. The lower courts based their assessment of the evidence and the overall message of the articles in question and the person of the complainant. The Constitutional Court agreed with the conclusion of the lower courts that the complainant's articles (at least indirectly) were aimed at inciting (or reinforcing) negative emotional attitudes towards members of various groups (Muslims, people of African descent, migrants, etc.).	The essence of the complainant's argument was that the criminal sanction of his speech published on a public network violated his constitutionally guaranteed rights, in particular freedom of expression. The complainant claimed that criminal law is not intended to be a tool for forming social consensus; punishing free speech. According to him, the contested provision also allows for any statement, including a statement of mere fact, to be criminalised, since it cannot be ruled out that it would give rise to a justified and legitimate negative attitude (hatred) on the part of a third party.	The issue at hand was whether the interference with the complainant's freedom of speech was in conformity with his constitutional rights. The complainant argued that the contested provision of the criminal code (incitement of hatred toward a specific group) is too vague and incomprehensible, which is unacceptable in criminal law regulation. The verb 'to incite' does not, according to the complainant, enable people to know what specific conduct is prohibited. Similarly, the complainant claimed that the concept of 'hatred' is subjective, it has no objective legal definition and it is therefore impossible to objectively assess whether this element of the offence has been fulfilled.	"6. Svoboda projevu je obecně zaručená článkem 17 odst. 1 Listiny a konkretizovaná v odst. 2 téhož článku. Zároveň však čl. 17 odst. 4 Listiny stanoví, že svobodu projevu a právo vyhledávat a šířit informace lze omezit zákonem, jde-li o opatření v demokratické společnosti nezbytná pro ochranu práv a svobod druhých, bezpečnost státu, veřejnou bezpečnost, ochranu veřejného zdraví a mravnosti (...)." Freedom of expression is generally guaranteed under Article 17(1) of the Czech Charter of Fundamental Rights and is specified in paragraph 2 of the same Article. At the same time, however, Article 17(4) of the Czech Charter of Fundamental Rights provides that freedom of expression and the right to seek and impart information may be restricted by law where such restriction is necessary in a democratic society to protect the rights and freedoms of others, the security of the State, public safety, public health, and morals (...).

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

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