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	2021	Germany / Higher Regional Court / Dienstgerichtshof für Richter beim Oberlandesgericht Stuttgart, Urteil vom18. März 2021 – DGH 2/19 –, juris, ECLI:DE:OLGSTUT:2021:0318.DGH2.19.00	https://openjur.de/u/2351923.html	Migrant status, Racial or ethnic origin	Service Court for Judges at the Higher Regional Court of Stuttgart (Dienstgerichtshof für Richter beim Oberlandesgericht Stuttgart)	The plaintiff is a public prosecutor and a member of the political party Alternative for Germany (Afd), for which he entered the Bundestag as a deputy after the Bundestag elections in 2017. The plaintiff was dismissed from his civil service position due to Islamophobic and xenophobic posts on Facebook and his own homepage. He took legal action against this without success, as the Higher Regional Court confirmed the case law of the Cologne Regional Court (first instance) to the effect that the dismissal was proportionate.	By engaging in such conduct continuously over a long period of time, the plaintiff has irretrievably and definitively destroyed the trust of his employer and the general public in his dutiful conduct in office. Removal from service - the most severe disciplinary measure - is therefore unavoidable and proportionate; milder disciplinary remedies are not sufficient.	A public prosecutor is subject to a heightened duty of neutrality compared with other officials. By posting or disseminating in a very pointed form text and image contributions on the Internet that are mainly hostile to migrants, Islamophobic and delegitimize the German judiciary, and for which he consciously claims the authority of his office in a way that reinforces this, even taking into account that the statements were made in the context of election campaigns, he seriously violates his core duties under civil service law.	When making statements during an election campaign, a civil servant may also use pointed formulations within the framework of his freedom of expression protected by Art. 5 GG and Art. 10 ECHR as well as to provide information about the profession in which he is engaged. However, he must observe his core duties under civil service law, such as the duty of loyalty to the constitution, neutrality and moderation.	Auszüge aus gepostеten Inhalten: „Der angebliche Prophet Mohammed […] ein emporgekommener Kriegsherr, sadistischer Blutsäufer und Kinderschänder war, vielleicht einfach nur ein wahnsinniger Psychopath […]“ Seite 27 Ziff. 115 and „Der Koran ist ausreichend basiert auf seinen kriminellen und völkermörderischen Projekten […]“ Seite 28, Ziff. 125. Das Gericht: „Die in Stil und Inhalt äußerst polemischen Äußerungen und die zugehörige bildliche Darstellung gehen über eine - auch überzogene - Religionskritik weit hinaus. […] Diese Textbeiträge lassen bei allen Beteiligten in (potentiellen) Ermittlungs- bzw. Strafverfahren, erst recht bei solchen muslimischen Glaubens, den Eindruck entstehen, dass der Beklagte ihnen allein wegen ihrer Religionszugehörigkeit ablehnend und gerade nicht objektiv und neutral gegenübersteht.“ Seite 29, Ziff. 126. Extracts from the content posted by the plaintiff: "The alleged Prophet Muhammad […] was an upstart warlord, sadistic blood drinker, and child molester, perhaps just an insane psychopath […]" Page 27 para. 115 and "The Koran is sufficiently based on his criminal and genocidal projects […]" Page 28, para. 125. The court: "The extremely polemical statements in style and content and the associated pictorial representation go far beyond a - even exaggerated - criticism of religion. […] These text contributions give the impression to all parties involved in (potential) investigative or criminal proceedings, all the more so to those of Muslim faith, that the defendant is hostile towards them solely because of their religious affiliation, and precisely not objectively and neutrally." Page 29, para. 126

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