

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Risk motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and 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
Luxembourg	2022	Luxembourg First Instance Court of Luxembourg v. [redacted] 1511/2022	https://easo.europa.eu/easocms%7CChA8vTobawz%7D%7Fandordressem%7D%7Cumbwgh%7D%7CAdAw%7F_Chamber%7D%7C2orctionnel%7D%7D%7D661_741%7F%7F_pseudonym%7C%7DAA_accessible.pdf	Religion	First Instance Court of Luxembourg City (lowermost chamber) Tribunal d'arrondissement de Luxembourg (de-neuvieme chambre)	On the 7th of February 2020, the Anti-Terrorist Section was informed of the existence of several comments on Facebook which contained xenophobic remarks. The comments were related to an article from «LEQUOTIDIEN.LU» shared by a user on his Facebook page. The investigation later revealed that a crime of Facebook profile associated with the comments belonged to the defendant. In his comments, the defendant declared that Muslims were scum, adding emoticons such as "nausea" or "I'm throwing up" to his comments. He also claimed that Muslims were not adapting and were imposing their religion on Europe and that he did not consider Muslims to be welcome in Luxembourg. He concluded by stating that they (Muslims) should be shot.	The Court concluded that the defendant had committed crimes that were intended to harm or violence under Article 454 of the Criminal Code. As such, the defendant was convicted to a €750 fine.	In view of the fact that in his comments the defendant refers to the full veil and the burqa, the Court considers that those comments hatred or violence against Muslims. Those comments were aimed at a group of people distinguished by their origin and by their supposed membership of a particular religion, namely the Muslim religion. Furthermore, it concludes that, given the unambiguous and degrading terms that were used, there was no doubt that the comments constituted hate speech likely to provoke feelings of deep dislike, contempt, rejection and hostility towards Muslims among the public. Finally, the Court declares that, by publishing subject comments on Facebook which insulted Muslims by calling them scum, the aim of the defendant was none other than to provide a feeling of hatred and incite to violence due to an alleged membership of the Muslim religion.	In its reasoning, the Court interprets the constituting elements of the offence to include, in addition to the element of intent to harm or violence, firstly, the presence of a statement accessible to a significant number of Facebook users. Secondly, statements need to be of such a nature as to cause hostility or rejection. The Court therefore has to determine whether the statements are hateful against Muslims, i.e. a violent expression of wanting to harm or a deep dislike against Muslims, and referring to them as a group of persons because of one of the "scum", characteristics referred to in Article 454 of the Criminal Code relating to discrimination. Fourthly, there needs to be a deliberate intention to harm or violence against them, in particular by proposing to shoot them, as a reaction of hatred in the public mind.	"In effect, on palliant sur Facebook des objets, référence aux musulmans, en les entre autres, mais de but de PEUVENT I n'était autre sentiment de ces derniers, et d'inclure à violence à l'égard, notamment ce qu'il propose de le abattre, et ce en raison de leur appartenance à une religion musulmane". Indépendamment, il est évident que les commentaires sur Facebook, se référant à eux comme à un groupe de personnes parce qu'ils ont une "scum", caractéristiques visées par l'article 454 du Code pénal relatives à la discrimination. Quatrièmement, il doit y avoir une intention délibérée de nuire ou de violence contre eux, en particulier en proposant de les tuer, comme une réaction de haine dans l'esprit public.

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