

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
Poland	2021	Poland / Supreme Court / Judgement of 24 November 2021, case no. V K 42/21	http://www.sn.pl/sites/orzecznictwo/Orzeczenia3/V%20KK%2042-21.pdf	Nationality	Supreme Court (Sąd Najwyższy)	The applicant was convicted, at first instance, for having insulted a group of Turkish nationals and persons of Arabian origin by shouting, among others: "Only white race, I will kill every Arab!" and other vulgar expressions aimed at Turks, Arabs and Muslims in a public place. When doing so, the man was being apprehended by the police and placed in a police van parked in a centre of a large city. He was then acquitted from this count by a court of the second instance, but a public prosecutor filed a cassation appeal at the Supreme Court against this decision.	The Supreme Court has repealed the judgement of the court of the second instance and referred the case to that court for reconsideration.	According to the Supreme Court, the acquitting judgement of the second instance court was based on a partial (not holistic) assessment of the evidence, and thus it should have been repealed. The Supreme Court has indicated that a video recording used as evidence depicted only the final stage of the defendant being apprehended (when he was already in a police van), whereas available testimonies of witnesses have proved that the man shouted racist statements also before, when he was outside of the car. Moreover, as other piece of evidence indicates, the man's shouts were clearly audible from the outside of the car even when he was already placed in it, because the door was open.	Although the Supreme Court has not decided on the defendant's guilt, the judgement provides some guidance on the interpretation of public character of the insult. The court has clarified that the mere fact that a perpetrator is inside a vehicle parked in public place does not preclude their liability for committing an insult.	"Niewątpliwie także osoba znajdująca się w samochodzie, przebywająca w miejscu publicznym w czasie i w warunkach, w których jej wypowiedź dotrzeć może do nieoznaczonego kręgu odbiorców (np. wobec otwartych drzwi samochodu) i kierująca na zewnątrz swoje wypowiedzi o charakterze rasistowskim może wypełnić znamiona czynu z art. 257 k.k." "Undoubtedly, a person placed in a car, located in a public place at the time and under circumstances allowing their statement to reach an unspecified group of addressees (e.g. thanks to the car door being open) and directing outwards their statements of racist character, might be found liable for a crime described in Article 257 of the Criminal Code."

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