

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
Belgium	2023	Belgium / Criminal court / 22L001479	https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/correctieele-rechtbank-leuven-11-september-2023	Religion, Racial or ethnic origin	Criminal court (Correctionele rechtbank)	A man posts on Facebook several messages inciting hatred or violence towards other (so-called) races and towards Muslims. The prosecution had prosecuted the accused for the following charges: (A) Incitement to hatred or violence towards a group and more specifically other racial groups (art. 20, 4° Antiracism Law) and (B) incitement to hatred or violence towards a group and more specifically other religious groups (muslims) (art. 20, 4° Discrimination Law).	The link between charges A and B led the court to declare itself incompetent to rule on the entire case.	The accused faced charges for inciting hatred and violence against groups through social media posts. Since the offense involves publicly accessible written material, it qualifies as a press offense. Although press offenses typically fall under the Assize Court's jurisdiction, charge A, driven by racism and xenophobia, falls under the criminal court's authority (Antiracism Law, Article 444 of the Criminal Code). For charge B, which involves incitement to hatred or violence motivated by faith and falls under the Anti-Discrimination Law, the court determined that this press offense remains under the jurisdiction of the Assize Court.	Unia identifies a de facto impunity for non-racist hate speech on social media. Indeed, the assize court is almost never convened to rule on non-racist print press crimes. Unia has long advocated revising Article 150 of the Constitution so that non-racist print press offences can also be adjudicated by the criminal court (see, for example, recommendation 16 in Unia's Memorandum for the 2024 elections).	"De rechtbank is van oordeel dat verschillende van de uitingen van de beklaagde zowel racistisch als haatdragend tegen het geloof zijn. 3 Gelet op het gemengd karakter van de berichten op sociale media, de aard van de berichten en posts en de samenhang tussen de tenuisteleggings A en B, dient de rechtbank zich onbevoegd te verklaren voor het geheel van de feiten onder zowel tenuisteleggings A als B." "The court finds that several of the defendant's utterances are both racist and hateful to the faith. Given the mixed nature of the posts on social media, the nature of the messages and posts and the connection between charges A and B, the court should decline jurisdiction for the facts as a whole under both charges A and B."

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

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