

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	2024	Belgium / Court of first instance / 22M000765	https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/correctionele-rechtbank-oost-vlaanderen-afdeling-oudenaarde-6-november-2023	Racial or ethnic origin	Court of first instance (rechtbank van eerste aanleg)	In May 2020, a photo of a woman was published on the website www.tscheldt.be , accompanied by an article. The woman was the newly appointed spokeswoman for Open VLD, a political party. The article insinuated that her country of origin was Iraq, that she relied on subsidies, and that she had not gone through a proper application process for her position. It also claimed she refused to engage with certain Flemish individuals, labeling them as too conservative, right-wing, racist, Nazi, angry, or white. The photo portrayed her wearing a black chador, implying she identified as a devout religious woman adhering to Sharia law. The case was brought to court by her as the civil party.	The administrator was sentenced to six months' imprisonment (suspended for three years) and a fine of €4,000, the obligation to take the publications offline with a ban on publication and dissemination under penalty of a fine of €1,000 per calendar day. In the case of the second defendant, the court ruled that there were doubts about the defendant's special intent to incite hatred or violence just resulting in acquittal. The third defendant was sentenced on the grounds of the incitement offence to one month's imprisonment (suspended for three years) and a fine of €800.	Three defendants had to answer for inciting hatred or violence against a person (Article 20, 2° Antiracism Law). The website administrator was prosecuted for posting or having posted and retained an article with accompanying photo on the website www.tscheldt.be and on Twitter and Facebook. The second defendant was prosecuted for posting the comment 'Flemings unite [sic] you and fight for your country' on Facebook. The third defendant was prosecuted for posting the comment 'Kill them without excuses those stupid primal people!!!'	One of the defendants argued that the case was a non-racial press offense, falling under the jurisdiction of the assise court per Article 150 of the Constitution, citing the chador as a reference to religion. However, the correctional court disagreed, as the defendants were charged with inciting hatred or violence against the spokeswoman based on her national or ethnic origin. The court ruled that this was a press offense driven by racism or xenophobia, falling under its jurisdiction. Additionally, the failure to moderate or remove racist and hateful comments left under the post further constituted incitement to hatred, as it amplified the discriminatory discourse.	"Dat er wel degelijk de intentie voorhanden was om met de publicaties en de foto haat op te wekken jegens de persoon van mevrouw (...) omwille van haar afkomst en/of etnische afstamming blijkt verder uit het feit dat de mogelijkheid om haatreacties achter te laten onder het geveerde bericht niet werd uitgeschakeld, en dat de haatreacties ook niet werden tegengehouden." "That there was indeed an intention to use the publications and the photo to incite hatred against the person of Ms (...) because of her origin and/or ethnicity is further evidenced by the fact that the option to leave hate comments under the targeted post was not disabled, nor were the hate comments stopped."

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

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