

## 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| Germany      | 2023 | <a href="#">Germany / Higher regional Court Stuttgart / 4.U.58/23 / ECLI:DE:OLGSTUT:2023:1129.4U58.23.00</a> | <a href="https://gesetze.berlin.de/bsbe/document/NJRE001557060">https://gesetze.berlin.de/bsbe/document/NJRE001557060</a> | Religion             | Higher Regional Court Stuttgart | The plaintiff was a politician and was committed to young Muslims. She posted on a platform about racism in response to a TV show. The following comment was made on her post: "Rarely have I seen such a stupid piece of brain vacuum in politics as Sxxx Cxxx. She should just disappear and pay off her family's social debts." | The Court issued an injunction, prohibiting the defendant from repeating the statement at issue. In case of a violation, a fine of € 250.000 applies. However, the request for compensation of non-material damage suffered by the plaintiff was denied. The Court found that the injunction was sufficient. The case highlights the distinction between unlawful defamatory statements and lawful criticism against politicians speaking up for minorities in the public debate. | The statement on the defendant's account uses the terms "stupid" and "brain vacuum" to characterize the plaintiff as a stupid and brainless politician who should disappear from politics ("go underground"). It is a statement that also contains a derogatory and defamatory component towards the plaintiff through the additional use of the term "piece" (specifically stupid piece of brain vacuum), because a person (or their parts) is not referred to as a piece, as this denies them any personal dignity (Article 1 of the Basic Law). The statement is therefore not an expression of opinion. | The injunction at issue was granted pursuant to Sec. 823 (1) Civil Code in conjunction with Art. 1, 2 Basic Law and Sec. 1004 (1) Civil Code in analogous application. This set of legal norms provides for injunctions where rights such as the general personality right derived from Art. 1, 2 Basic Law are violated. The statements at issue are unlawful defamatory infringements of personality rights, extending to a denial of human dignity (Art. 1 Basic Law). As such, they are not covered by freedom of expression. Freedom of expression has to step back where human dignity is affected. | "Ein Facebook-Beitrag, in dem eine deutsche Politikerin als "dämliches Stück Hirn-Vakuum" bezeichnet und ihr nahe gelegt wird, sie solle "einfach abtauchen und die Sozialschulden ihrer Familie begleichen", stellt eine Schmähkritik bzw. ein herabsetzendes Werturteil dar, die nicht hingenommen werden müssen. Bei dem Beitrag steht nicht die Auseinandersetzung in der Sache, sondern die Diffamierung und das grundlose Verächtlichmachen der Person im Vordergrund." "A Facebook post in which a German politician is described as a "stupid piece of brain vacuum" and is advised to "just disappear and pay off her family's social debts" is abusive criticism or a derogatory value judgement that must not be accepted. The post is not about discussing the matter, but about defaming and baselessly disparaging the person." |

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