

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
Luxembourg	2023	Luxembourg/Higher Administrative Court, 47906C/ECLI:LU:CADM:2023:47906	https://ja.public.lu/45001-50000/47906C.pdf	Religion, Racial or ethnic origin	Higher Administrative Court (Cour Administrative)	In 2019, the public company POST Luxembourg applied a disciplinary sanction of revocation to a worker who was considered guilty, among others, of harassing, discriminating and disrespecting and external employee of the company. The worker lodged a judicial appeal against the disciplinary sanction. The Administrative Tribunal concluded in 2022 that the worker had inserted images in the desktop of an external employee showing a vibrator and, on one occasion, slaughtered pigs bathed in their blood; had thrown clay bubbles at him; used the expressions Taliban or terrorist to refer to him during a discussion; and said, upon the external employee's return from leave, that his skin was almost black. As such, it rejected the appeal, confirming the legality of the disciplinary sanction (Case N° 44025 - see https://fra.europa.eu/en/databases/anti-muslim-hatred/node/8175).	The Higher Administrative Court confirmed the ruling of the Administrative Tribunal and therefore upheld the legality of the disciplinary sanction.	Notwithstanding, the Court concludes that only the most severe sanction is applicable in the case at hand given that the acts of which the appellant is accused were spread over a period of several years, he showed no real repentance for his behaviour and the reputational damages and damages to the public interests of the employer would be too significant if the employment contract of the appellant was not terminated.	The Higher Administrative Court interprets the criteria for assessing the proportionality of the disciplinary sanction, notably the seriousness of the misconduct, the nature and rank of the duties of the accused and his priors.	"Cependant, il y a lieu d'insister de nouveau sur le constat que les faits reprochés à l'appelant se sont étalés sur une période de plusieurs années allant de fin 2015 jusqu'au printemps 2019 et que la Cour n'entrevoyait aucun réel repentir dans le chef de l'appelant, celui-ci se contentant pour l'essentiel à minimiser les faits lui reprochés, de sorte que c'est à juste titre que la partie intimée argumente que le maintien de Monsieur (A) auprès de POST Luxembourg est irrémédiablement compromis." "However, it must be emphasised once again that the acts of which the appellant is accused were spread over a period of several years from the end of 2015 until the spring of 2019 and that the Court does not see any real repentance on the part of the appellant, who essentially confined himself to minimising the acts of which he is accused, so that the respondent is right to argue that Mr (A)'s continued employment with POST Luxembourg is irremediably compromised."

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

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