

Cases and rulings

This database section allows to search here for international, European and national case law and rulings as well as decisions by courts, and decisions, reports, findings by human rights or equality bodies and organisations, relating to hate crime and incitement to hate speech, hate crime and discrimination against Muslims.

Filter the database by

COUNTRY(-IES) :

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom

YEAR(S) :

2012, 2013, 2014, 2015, 2016, 2017, 2018

BIAS MOTIVATION AS DEFINED BY COURT/BODY :


Ethnic origin, Race, Religion, Nationality, Gender, Migrant status

COURT/BODY TYPE :

UN Human Rights Committee, UN CERD Committee, European Court, National Higher Court, National court, Equality Body, Ombudsman, High regulatory authority

CRIME TYPE :

Homicide, Physical violence, Arson, Vandalism, Property offence, Threat of violence, Incitement to violence or hatred, Hate speech, Discrimination, Harassment

MS	Year	Reference details title	Reference details URL	HATE BIAS	Court / Body	KEY FACTS	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Results (sanctions, outcome) and key consequences or implications of the case	Key quotation in original language and translated into English with reference details
	2017	Slovakia / The Council for Broadcasting and Retransmission	http://www.rvr.sk/cms/data/modules/download/1493924782_zapisnica_07_2017-04-25.pdf	Ethnic origin, Religion	The Council for Broadcasting and Retransmission (Rada pre vysiel	The Council for Broadcasting and Retransmission (RVR) fined the broadcaster of Žilina-based Radio Frontinus	Frontinus Ltd. violated the Section 19 1b) of the Law no. 308/2000 Coll. On broadcasting and retransmission by broadcasting a program Discussion via phone call on its radio service of Radio Frontinus on	The body (Council for Broadcasting and Retransmission interpreted the statements presented on radio broadcasting as incitement to hatred.	The radio received a sanction - fine in the amount of 15,000Euros. Mr Mazurek (MP) has been also investigated by the police for his statements on Radio Frontinus.	"... že dňa 2. 10. 2016 o cca 9:34 hod. odvysielal na rozhlasovej programovej službe Rádio Frontinus program Debata na telefón, v ktorom došlo vvyjadrení o nebezpečenstve, ktoré predstavuje skupina islamských imigrantov k porušeniu zákazu


vyšetrovanie a retransmisia (RVR)


for a talk show attended by Milan Mazurek, MP of the far-right People's Party – Our Slovakia (ĽSNS). The talk show was broadcast on 2 October 2016. The RVR claimed it was not impartial as Mazurek was the only guest. Moreover, RVR also sanctioned the radio with a notice of law violation for Mazurek's offensive statements against Roma and Muslim migrants.


2 October 2016 around 9:34, within which the prohibition of hidden forms of incitement was violated by statements representing Muslim immigrants as a danger.


skrytou formou podnecovať nenávisť na základe viery a náboženstva."


"by broadcasting a program Discussion via phone call on its radio service of Radio Frontinus on 2 October 2016 around 9:34, within which the prohibition of hidden forms of incitement was violated by statements representing Muslim immigrants as a danger."


	<p>2017</p>	<p>ECtHR / Application no. 34367/14 / Belkacem v. Belgium</p>	<p>http://hudoc.echr.coe.int/eng?i=001-175941</p>	<p>Religion</p>	<p>European Court of Human Rights, ECHR</p>	<p>The case concerned the conviction of Mr Belkacem, the leader and spokesperson of the organisation "Sharia4Belgium", which was dissolved in 2012, for incitement to discrimination, hatred and violence on account of remarks he made in YouTube videos concerning non-Muslim groups and Sharia.</p>	<p>The Court was in no doubt as to the markedly hateful nature of Mr Belkacem's views, and agreed with the domestic courts' finding that the applicant, through his recordings, had sought to stir up hatred, discrimination and violence towards all non-Muslims. In the Court's view, such a general and vehement attack was incompatible with the values of tolerance, social peace and non-discrimination underlying the Convention.</p>	<p>With particular reference to Mr Belkacem's remarks concerning Sharia, the Court reiterated that it had ruled that the fact of defending Sharia while calling for violence to establish it could be regarded as "hate speech".</p> <p>The Court considered that Mr Belkacem had attempted to deflect Article 10 of the Convention from its real purpose by using his right to freedom of expression for ends which were manifestly contrary to the spirit of the Convention. Accordingly, the Court held that, in accordance with Article 17 of the Convention, Mr Belkacem could not claim the protection of Article 10.</p>	<p>The Court therefore rejected the application, finding that it was incompatible with the provisions of the Convention and that Mr Belkacem had attempted to deflect Article 10 of the Convention from its real purpose by using his right to freedom of expression for ends which were manifestly contrary to the spirit of the Convention.</p>	<p>The Court noted at the outset that, while its case-law enshrined the overriding and essential nature of freedom of expression in a democratic society, it also laid down its limits by excluding certain statements from the protection of Article 10 of the Convention. In the Court's view, such a general and vehement attack was incompatible with the values of tolerance, social peace and non-discrimination underlying the Convention. With particular reference to Mr Belkacem's remarks concerning Sharia, the Court reiterated that it had ruled that the fact of defending Sharia while calling for violence to establish it could be regarded as "hate speech".</p>
--	-------------	---	--	-----------------	---	--	--	---	---	---



	<p>2017</p>	<p>ECtHR / Application no. 4619/12 / Dakir v. Belgium</p>	<p>http://hudoc.echr.coe.int/eng/?i=001-175139</p>	<p>Religion</p>	<p>European Court of Human Rights, ECHR</p>	<p>The case concerned a by-law adopted in June 2008 by three Belgian municipalities (Pepinster, Dison and Verviers) concerning a ban on the wearing in public places of clothing that conceals the face.</p>	<p>The Court found in particular that the ban imposed by the joint by-law of the municipalities in the Vesdre police area could be regarded as proportionate to the aim pursued, namely the preservation of the conditions of “living together” as an element of the “protection of the rights and freedoms of others. It therefore held that the contested restriction could be regarded as “necessary” “in a democratic society”, and that the question whether or not it should be permitted to wear the full-face veil in public places in Belgium constituted a choice of society.</p>	<p>The Court found in particular that the ban imposed by the joint by-law of municipalities in the Vesdre police area could be regarded as proportionate to the aim pursued, namely the preservation of the conditions of “living together” as an element of the “protection of the rights and freedoms of others. It therefore held that the contested restriction could be regarded as “necessary” “in a democratic society”, and that – similarly to the situation which had previously arisen in France (S.A.S. v. France²) – the question whether or not it should be permitted to wear the full-face veil in public places in Belgium constituted a choice of society.</p>	<p>The European Court of Human Rights held, unanimously, that there had been:</p> <p>no violation of Articles 8 (right to respect for private and family life) and 9 (right to freedom of thought, conscience and religion) of the European Convention on Human Rights,</p> <p>no violation of Article 14 (prohibition of discrimination), taken together with Articles 8 and 9 of the Convention,</p> <p>and a violation of Article 6 § 1 (right of access to a court).</p> <p>The Court held that Belgium was to pay Ms Dakir 800 euros (EUR) in respect of costs and expenses.</p>	<p>The Court noted, firstly, that the contested ban had a legal basis – the joint by-law of the municipalities included in the Vesdre police area – and thus met the criteria set out in its case-law concerning Articles 8 and 9 of the Convention. Secondly, as in the case of S.A.S. v. France², the Court considered that the aim of ensuring the observance of the minimum requirements of life in society could be considered as part of the protection of the rights and freedoms of others, and that the contested ban could be regarded as justified in its principle solely in so far as it sought to guarantee the conditions of “living together”.</p>
--	-------------	---	--	-----------------	---	--	---	---	---	---

	<p>2017</p>	<p>ECtHR / Application no. 37798/13 / Judgment / Belcacemi and Oussar v. Belgium</p>	<p>http://hudoc.echr.coe.int/eng/?i=001-175141</p>	<p>Religion</p>	<p>European Court of Human Rights, ECHR</p>	<p>The case concerned the ban on the wearing in public of clothing that partly or totally covers the face.</p> <p>Ms Belcacemi and Ms Oussar present themselves as Muslims who have decided on their own initiative to wear the niqab on account of their religious convictions.</p> <p>On 26 July 2011, Ms Belcacemi and Ms Oussar brought actions for the suspension and annulment of the law before the Constitutional Court. Their cases were dismissed by that court.</p>	<p>The Court found in particular that the restriction sought to guarantee the conditions of “living together” and the “protection of the rights and freedoms of others” and that it was “necessary in a democratic society”.</p>	<p>The Court found that the concern to ensure respect for the minimum guarantees of life in society could be regarded as an element of the “protection of the rights and freedoms of others” and that the ban was justifiable in principle, solely to the extent that it sought to guarantee the conditions of “living together”. It was a matter of protecting a condition of interaction between individuals which, for the State, was essential to ensure the functioning of a democratic society. The question whether the full-face veil was to be accepted in the Belgian public sphere was thus a choice of society.</p>	<p>The European Court of Human Rights held, unanimously, that there had been:</p> <p>no violation of Articles 8 (right to respect for private and family life) and 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights,</p> <p>and no violation of Article 14 (prohibition of discrimination) taken together with Articles 8 and 9.</p>	<p>Secondly, the Court found that the drafting history of the Belgian Law used three aims to justify the ban in Belgium: public safety, gender equality, and a certain conception of “living together” in society. It noted that, as it had found in <i>S.A.S. v. France</i>², the concern to ensure respect for the minimum guarantees of life in society could be regarded as an element of the “protection of the rights and freedoms of others” and that the ban was justifiable in principle solely to the extent that it sought to guarantee the conditions of “living together”.</p>
--	-------------	--	--	-----------------	---	--	--	---	--	--

	2017	R v Pelham Case no. U20170377/T20170114 ...	http://www.thelawpages.com/court-cases/Nigel-Christopher-Pelham-20309-1.law	Religion	Blackfriars Crown Court	The defendant posted a number of hateful posts of Facebook including comments such as, 'what this country needs is a bomb a mosque day' and 'we must burn mosques to the ground'.	The defendant pleaded guilty to all eight counts.	This case, and the few cases like it, are significant owing to low number of prosecutions brought for this offence which can only be prosecuted with consent of Attorney General.	The defendant received a 20 month custodial sentence	
--	------	--	---	----------	-------------------------	---	---	---	--	--

	2017	Estonia / Court Ruling of the Harju County Court / 1-17-3604-/5	http://www.riigi.teataja.ee/kohtulahendid/detailid.html?id=208230159	Nationality	Harju County Court (Harju Maakohus)	The Harju County Court convicted a man for attacking and beating a male Pakistani citizen at a sports club. The victim suffered external injuries on the face, neck, arms and legs, but ambulance was not required. The fight was witnessed by the victim's partner and one of the sports club's members.	Revo Pehlak is accused of attacking another client on 8 December 2016 at the lobby of Zelluloosi sports club, violating requirements for public conduct: it is prohibited in a public place to behave in a manner which disturbs or endangers another person and above all to hit or shove another person, fight, throw things at another person or an animal or item by endangering them, or behave violently in another manner or to insult, intimidate or threaten another person by words, gestures or otherwise, and public place is a territory, building, room or a part thereof given to an unspecified number of persons for use or used by an unspecified number of persons, and also a public transport vehicle.	None that are applicable to the subject of the information request.	The court convicted Revo Pehlak with imprisonment for 1 year and exclude Revo Pehlak from imprisonment conditionally if Revo Pehlak does not commit a new, deliberate crime during a probation period of 2 years. The trial period of Revo Pehlak started from the moment when the judgment was pronounced on 25 May 2017. Prohibition of leaving the place of residence imposed on Revo Pehlak to be cancelled when the judgment enters into force.	"Seega Revo Pehlak pani toime avalikus kohas käitumise üldnõuete rikkumise, mis on toime pandud vägivallega s.o KarS § 263 lg 1 p 1 järgi kvalifitseeritava kuriteo." English translation (unofficial): "Thus, Revo Pehlak committed a violation of the general conduct of public place conduct, which has been committed with violence, that is to say, a criminal offence under Article 263 (1) 1) of the Penal Code."
--	------	---	---	-------------	-------------------------------------	---	---	---	--	---

	2017	Austria / Regional Court Korneuburg / 505 Hv 109/16y		Nationality	Regional Court (Landesgericht)	The defendant posted on several facebook pages the following: "Adolf Hitler needed to be alive and instead of killing innocent Jews, he should put all asylum seekers into a large hall and burn them alive." In addition, in response to an online newspaper article referring to 45 refugees being abandoned on the motorway, he posted a comment stating: "Away with the muck!!!!!!".	Not publicly available	Not publicly available	Sentenced to 3 months imprisonment on probation (duration of probation: 3 years)	Not publicly available
--	------	--	--	-------------	--------------------------------	--	------------------------	------------------------	--	------------------------

	2017	Hungary / Constitutional Court / Decision no. 7/2017	http://public.mkab.hu/dev/dontesek.nsf/0/d768be12d61723fbc1257d01004ca59d/\$FILE/9_2017%20AB%20hat%C3%A1rozat.pdf	Religion	Constitutional Court (Alkotmánybíróság)	<p>The Local Government of Ásotthalom, a town at the Serbian-Hungarian borders, adopted Local Governmental Decree no. 12/2014. on 23 November 2016 on the 'General rules of community coexistence'. The decree contained a prohibition on Islamic call to prayer activities, and wearing Muslim headscarves, chador, niqab, or burkini in the town of Ásotthalom. The decree also included a ban on the construction of any mosques and minarets in the town.</p>	<p>The Commissioner for Fundamental Rights (Alapvető Jogok Biztos) turned to the Constitutional Court (Alkotmánybíróság) claiming that the local governmental decree of Ásotthalom violated Paragraph (3) of Article I. of the Fundamental Law of Hungary (Magyarország Alaptörvénye) that stipulates: 'The rules relating to fundamental rights and obligations shall be laid down in act of Parliament'. The Commissioner also claimed that the decree had violated the fundamental right to freedom of religion (Article VII of the Fundamental Law of Hungary).</p>	<p>The Constitutional Court had to decide whether the legislative power of local authorities to adopt local ordinances and decrees to manage local matters extends to matters closely related to fundamental rights. Moreover, the Constitutional Court had to clarify whether local governments could restrict the exercise of fundamental rights at the local level on the ground of maintaining 'public safety'.</p>	<p>The Constitutional Court found that the local decree violated fundamental rights and was discriminative in nature. The Court emphasised that local governments could never use their power to restrict the practice of fundamental rights, and such restrictions would also be discriminative in nature. As a result of the procedure, the Constitutional Court annulled the local decree.</p>	<p>Article 43 of the Decision: 'Amennyiben a települési önkormányzat nem helyi közügyet, hanem közvetlenül alapjogot érintő kérdést szabályoz rendeletében, úgy jogalkotói hatalmát alkotmányellenesen alkalmazza.'</p> <p>'In case the local government adopts decrees not regulating local matters but matters in direct relations to fundamental rights, the local government uses its legislative power unconstitutionally.'</p>
	2017	Portugal / Portugues	http://app.parlamento.pt/webu	Ethnic	Portugues	The Parliament	Providing on-line information on	The internet dissemination of	The Portuguese Data Protection	"A disponibilização na internet de informação

e Data
Protection
Authority/
Opinion
21/2017

<https://european-courts.eu/files/docs/doc.pdf?path=6148523063446f764c324679626d56304c334e706447567a4c31684a53556c4d5a5763765130394e4c7a464451554e45544563765247396a6457316c626e527663306c7561574e7059585270646d46446232317063334e68627938784e5756694d6a686a4d4330355a6a42694c5451344e7a63744f4451304e5330794e6d51345a54597a596a5269595459756347526d&fich=15eb28c0-9f0b-4877-8445-26d8e63b4ba6.pdf&inline=true>

origin,
Race,
,
Religion,
Nationality,
,
Gender,
Migrant
statuses

e
Data
Protection
Authority


introduced
amendments to the
national
laws
regulating
the principle
of equal
treatment
and the
prohibition
of
discrimination.

discriminatory
practices by natural
persons, within
administrative
offence
proceedings or in
the civil court
proceedings, is
excessive because
it involves the risk of
perpetuating
information beyond
the necessary time,
undermining the
principle of
proportionality.

data relating to
natural persons,
including injured
parties
themselves, in
the context of
administrative
offence
proceedings
relating to
conduct of
discrimination,
will have to
consider the risks
that such
disclosure to the
public will entail
in relation to the
protection of
personal data.
Online
publication of
data relating to
natural persons
will have to be
reported to the
Commission as it
involves the
processing of
personal data.
The internet
dissemination of
information on
discriminatory
practices by
natural persons,
within
administrative
offence
proceedings or in
the civil court
proceedings, is
excessive
because it
involves the risk
of perpetuating
information
beyond the
necessary time,
undermining the

Authority has
recommended to
the Parliament to
take into
consideration the
risks associated
with the
dissemination on
the internet of
information
relating to natural
persons. The
Portuguese Data
Protection Authority
was concerned
about the internet
dissemination of
information
relating to
discriminatory
practices carried
out by natural
persons because
it involves the risk
of perpetuating
information apart
from the necessary
time, undermining
the principle of
proportionality. The
Parliament
followed this
recommendation
and only
mentioned in the
text of the law the
internet
dissemination of
information
concerned legal
persons.

relativa a práticas
discriminatórias levadas
a efeito por pessoas
singular, seja em sede
de processo de
contraordenação seja no
âmbito de um processo
de natureza cível,
afigura-se excessiva, na
medida em que este
meio de comunicação
implica uma difusão em
larga escala e o risco de
perpetuação da
informação mesmo para
além do momento em
que ela é necessária,
pondo em risco o
princípio da
proporcionalidade". The
internet dissemination of
information relating to
discriminatory practices
carried out by natural
persons, whether in the
context of administrative
offence proceedings or
in the context of a civil
procedure, seems
excessive because it
involves the risk of
perpetuating information
apart from the necessary
time, undermining the
principle of
proportionality.

	201 7	Austria / Supreme Court / 15Os25/1 7s ECLI:AT:O GH0002:2 017:0150 OS00025. 17S.0405. 000	http://www.ris.bka.gv.at/Dokumentwxe?ResultFunktionToken=44292f90-7c90-42e0-ad90-0d7e2263a822&Position=1&Abfrage=Justiz&Gericht=&Rechtssatznummer=&Rechtssatz=&Fundstelle=&AenderungenSeit=Undefined&SucheNachRechtssatz=True&SucheNachText=TRUE&GZ=&VonDatum=&BisDatum=03.07.2017&Norm=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=Rassismus&Dokumentnummer=JJT_20170405_OGH0002_0150OS00025_17S0000_000	Race	Supreme Court (Oberster Gerichtshof)	The case concerns online incitement to hatred and violence. More concretely, the defendant (J.H.) was indicted for posting an image on Facebook showing two snipers lying in a trench with machine guns, with the caption "The fastest asylum procedure in Germany ... rejects up to 1,400 requests per minute".	The Supreme Court found that asylum seekers are covered by § 283 StGB. Through the amending law concerning the Criminal Code, it should be explicitly determined that a protected group can be defined both positively and negatively by inserting the word sequence "existing or missing".	One of the key issues was about whether the defendant's despicable statement (i.e. posting on his Facebook page a picture of two snipers lying in a trench with machine guns, including the imprint "The fastest asylum procedure in Germany ... rejects up to 1,400 requests per minute") constitutes incitement to violence or hatred in terms. Concretely, the issue is about whether 'asylum seekers' as such are covered by § 283 StGB.	The Supreme Court ruled that the judgement of the Higher Regional Court Graz misapplied the law. The misapplication of the law, which was opposed by the Prosecutor's General Office (Genrealprokuratur), was thus to be determined.	Mit dem StRÄG 2015 sollte durch Einfügung der Wortfolge „vorhandenen oder fehlenden“ (Kriterien) in Abs 1 Z 1 ausdrücklich festgelegt werden, dass eine geschützte Gruppe sowohl positiv als auch negativ definiert werden kann [...] Somit erfüllt das Hetzen gegen die Gruppe der „Ausländer“ im Allgemeinen den aktuellen Tatbestand, weil auch das Fehlen eines der in § 283 Abs 1 Z 1 StGB genannten Kriterien (etwa einer bestimmten Staatsangehörigkeit) zur Definition einer geschützten Gruppe reicht. Through the amending law concerning the Criminal Code (StRÄG 2015), it should be explicitly determined that a protected group can be defined both positively and negatively by inserting the word sequence "existing or missing" (criteria) in para 1 Z1. [...] Thus, incitement against the group of "foreigners" generally falls within the scope of the offence, since the absence of one of the criteria (e.g. a certain nationality) as defined in § 283 para 1 StGB is sufficient to define a protected group.
--	----------	--	---	------	---	--	---	--	--	---

The information presented here is collected under contract by the FRA's research network FRANET. The information and views contained do not necessarily reflect the views or the official position of the FRA.

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

Copyright © 2020 European Union Agency for Fundamental Rights