

Cases and rulings

This section covers significant international, European and national case law and decisions. It also covers findings issued by UN human rights bodies and national human rights bodies relating to anti-Muslim hatred incidents, such as violence, property offences, incitement to violence or hatred, other forms of hate speech, discrimination, harassment.

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COUNTRY :

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

YEAR(S) :

2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020

HATE BIAS MOTIVATION :

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

COURT / BODY TYPE :

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

CRIME TYPE(S) :

Homicide, Physical violence, Arson, Vandalism, Property offence, Threat of violence, Incitement to violence or hatred, Other forms of 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
Denmark	2012	Denmark / Supreme Court / U 2012.2361H		Religion	Danish Supreme Court (Højesteret)	The defendant is a journalist and was the chair of the Freedom of Press Association. He was interviewed in 2009 by an online magazine. During this interview, he made several degrading remarks about Islam and Muslims, including: "When a Muslim man rapes a woman, it is his right to do so. When Swedish girls are raped, gang-raped, etc., there is nothing wrong with that, from a Muslim perspective - that's your right." "They rape their own children. You hear that all the time. Girls in Muslim families are raped by their uncles, their cousins or their fathers."	The defendant's attorney argued that the relevant paragraph in the Danish Criminal Code, known as "the racism paragraph" (Racismeparagraffen) requires the statement in question to be both "degrading/similar" and "in public or with intent to be made public". The previous ruling from the Danish High Court had established that while the defendant had not intended for the statements to be made public, he should have realised, based on the facts of the case, that they would be made public. The Supreme Court rejected this line of argument, pointing out that the racism paragraph required intent, and as this intent to make public was lacking, acquitted the defendant.	The question of whether a person should be tried under "the racism paragraph" which requires a statement to be both degrading and humiliating and made with intent of publication.	The Supreme Court found that the defendant had made degrading statements, but that he had not intended for those statements to be made public.	
Finland	2012	Finland / Supreme Court / KKO:2012-58, R20101101	http://www.finlex.fi/koikeus/kko/kko_2012_58	Religion, Race/Ethnicity	Supreme Court (Korkein oikeus / Högsta domstolen)	The Supreme Court convicted a Finnish MP of incitement to hatred (ethnic agitation) and breach of the sanctity of religion for an article he wrote in his blog in 2008. In this blog entry he described Islam as a paedophile religion and wrote that theft and leading a parasitic life by living off welfare is a national and maybe even genetic characteristic of Somalis. The Helsinki District Court and the Court of Appeal had previously acquitted the defendant of the charge of incitement to hatred, but the Court of Appeal convicted him for breach of the sanctity of religion.	The Supreme Court referred to various cases of the European Court of Human Rights, in particular to Ferret vs. Belgium. The court concluded that the claim made about Somalis as a group is defamatory and insulting. The defendant stated that the intention of the blog entry was to provide critique of the press and authorities. The court stated that such an intention does not justify defamatory and insulting. The court concluded that the defendant has clearly understood the defamatory and insulting nature of the text, although part of it was written in a sarcastic style. The statements were likely to arouse intolerance, contempt, and possibly even hatred. Therefore the statements can be understood as "hate speech" that does not enjoy the protection of the freedom of expression.	The judgment clarifies the concept of hate speech and its relationship to freedom of expression. The Supreme Court states that the defendant's intention may well have been to provide a critique of the press and authorities. However, such an intention does not justify defamatory and insulting. The court concluded that the defendant has clearly understood the defamatory and insulting nature of the text, although part of it was written in a sarcastic style. In addition, the Supreme Court states that the defendant has been actively involved in politics and this position has to be taken into account in exploring the boundaries between freedom of expression and its restrictions.	The defendant (Mr. Halla-aho) was sentenced to a 30 day fine (300 euro). The court ordered the parts of the blog text that include incitement to hate/ethnic agitation to be deleted. As a consequence of the judgment Mr. Halla-aho had to resign from the chairmanship of the Administration Committee of Parliament. At first, Mr. Halla-aho refused to resign, but gave in on 13 June 2012 after the leaders of all political party groups in Parliament, with the exception of the Finns Party, unanimously voiced the view that he cannot continue in the post. (In 2017, Mr. Halla-aho was elected chairman of the Finns Party.)	"[...] lausumatt oviaan herättämään suvaitsemattomuutta, halveksuntaa ja mahdollisesti jopa vihaa niiden kohteena olevaa kansainvälistä kirkkiaan. Ne ovat siven ymmärtäväisiä niin sanottu vhauphen karkkisten lausumia, jota evät nadi sananvapauden tosua." "[...] the statements are likely to arouse intolerance, contempt, and possibly even hatred. They can be categorised as hate speech, which does not enjoy the protection afforded to freedom of expression."
Germany	2012	Germany / Higher Regional Court Frankfurt a.M. / 20 W 12/08		Religion	Higher Regional Court (Oberlandesgericht)	The owner community of a real estate complex refused to give part-ownership of the complex for the purpose of creating a Muslim community centre. Part-ownership was initially conferred to the group for the purpose of opening a supermarket; the owner community reversed its decision once it had become clear that the space would be used to create a Muslim community centre. The applicants applied for voiding the decision of the owner community.	A mere label in the plan "supermarket" does not constitute a binding agreement on permissible use of the part-ownership. If the owner community statutes provide for commercial use without explicit permission by the community trustee, the use for a Muslim community centre is a lawful change of use since no major disturbances are to be expected compared to other commercial uses. Thus, there is no right of the owner community to an injunctive relief.	Disturbances caused by a Muslim community centre (mosque) do not exceed those of any commercial use of a part-ownership real estate.	Cancellation of the decision of the owner community assembly confirmed by two previous rulings in lower courts.	"The use as a supermarket as for reference for comparison (in ruling of the previous instance) constituted a legal error." "The intended use as Muslim community centre (compared to a commercial use) in the currently planned extent does not constitute an increased and consequently compromising use." "Das Landgericht hat [...] rechtfehlerhaft die Nutzung als Supermarkt als Vergleichsmaßstab angenommen. [...] (im Vergleich einer kommerziellen Nutzung) mit einer Nutzung als muslimisches Gemeindeforum, stellt sich Letztere in dem vorliegenden geplanten Umfang jedenfalls nicht als intensiver und damit beachtenswertere Nutzung dar."
Germany	2012	Germany / Administrative Court Meiningen / 2 E 355/12 Me	http://www.thyreg.de/ueber/ueber.htm	Religion	Administrative Court (Verwaltungsgericht)	Application by the right-wing party NPD for a public demonstration close to a mosque with the slogan "Stop foreign infiltration - no mosque in E." was rejected by the competent authorities because the gathering posed a threat to public safety. The applicant asked for reversing the prohibition in an urgency appeal.	The competent authority may ban a public meeting or demonstration or may require the compliance with specific conditions, if at the time of the decision according to recognizable circumstances public safety is directly endangered by the event. The risk assessment by the authority requires material grounds, which should, after sound analysis, indicate a sufficient probability of risks. Mere suspicion or assumptions of risk do not meet this requirement.	Right to public gathering and freedom of speech versus risk of section against specific groups.	Cancellation of the ban by the competent authority in an urgency decision. Authorisation to raise conditions (shorten the time span for the gathering, dislocation to another place). Rejection of a comparison with bans of public gatherings against Jewish institutions due to the special case of persecution of Jews during WWII.	"The ban of a public meeting in direct proximity to a mosque with the slogan "Stop foreign infiltration - no mosque in E." is unlawful because no concrete signs for endangering public safety had been present. The case does not constitute a section prohibited by law. The ban is cancelled." "The authorisation for the public gathering is restored under the condition of dislocation to another meeting place more distant to the mosque." "Das Verbot einer Versammlung in unmittelbarer Nähe eines islamischen Gebetsraums unter dem Motto "Überfremdung stoppen - keine Moschee in E." ist rechtmäßig, weil keine konkreten Anhaltspunkte für eine Gefährdung der öffentlichen Sicherheit vorliegen. Das Motto erfüllt nicht den Tatbestand der Volksverhetzung." "Die aufschiebende Wirkung des Widerspruchs des Antragstellers vom 20.07.2012 gegen das Versammlungsverbot der Antragsgemeinde im Bescheid vom gleichen Tag wird unter folgender Auflage wiederhergestellt: Der Kundgebungsort wird auf die [...] - aus Richtung S. - kommand rechtsseitig hinter den Pollen in Richtung G. - verlegt."
Germany	2012	Germany / Labour Court Berlin / 55 Ca 2426/12	https://openjur.de/u/547890.html	Religion	Labour Court (Arbeitsgericht)	During a job interview for the position of dental assistant, a female Muslim interviewee was asked to refrain from wearing her headscarf during work as a condition for the job. She refused and received a rejection via email.	The petitioner was fully qualified for the job and was rejected only due to her refusal to wear a headscarf at the job. The court considered this clear discrimination on religious grounds.	Exclusion from the pool of candidates only due to a refusal to not wear headscarf; the headscarf is a genuine expression of the petitioner's religiosity.	Payment of a compensation of 1.470€ by the employer to the rejected applicant (three monthly gross wages of the job offer).	"The scarf is no general clothing which may be subject to restrictions by the instructor on the grounds of workplace safety, aesthetics equal treatment or norms of working garment." "The voluntary exclusion of persons confessing to and practicing the Muslim faith is a compelling unequal treatment due to religion." "Dieses Kopftuch stellt nicht ein gewöhnliches Kleidungs- oder Schmuckstück dar, bei welchem der Ausbilder aus Gründen der Arbeitssicherheit, der Ästhetik, der Gleichbehandlung oder der Normsetzung im Rahmen einer Kleiderordnung das Ablegen begehren könnte." "Der gewollte Ausschluss von Personen, die sich zum Islam bekennen und ihn auf ihre Art leben, stellt zwingend eine Andersbehandlung wegen der Religion dieser Personen dar."
Luxembourg	2012	Luxembourg / Court of and in the Luxembourg arrondissement (12th chamber) / No. 31604/10/CD		Nationality		Mr S. sent two emails to the Ministry of education inciting racial hatred towards the Portuguese community living in Luxembourg, stating that the Portuguese youth were not ready to integrate. He also threatened the employees of the ministry with a bomb attack if the Portuguese language became part of the national curriculum. Mr S. admitted to this and said he was sorry for his actions, but also that it was caused by his depression.	Mr S. violated article 455 on hatred towards a community on the basis of any factor. He also anonymously threatened an attack on people and property.	Mr S. attempted to threaten officials on the grounds of his racial hatred towards the Portuguese community in Luxembourg. He had however no prior convictions, which played in his favour in the sentencing.	Mr S. was sentenced to a penalty of 600€ and 3 months in prison on probation.	
Netherlands	2012	Netherlands / Supreme Court / Case no. 11.00864 ECLI:NL:HR:2012:BW9189	http://deezlink.rechtspraak.nl/sgpra...	Race/Ethnicity, Religion	Supreme Court (Hoge Raad)	In this case, the Supreme Court confirmed the judgement of the Court of Appeal convicting a man who put texts comparing Muslims and people of Turkish descent with monkeys, cockroaches, rats and rapists on his own website. The Court of Appeal convicted the accused under Article 137c of the Dutch criminal code which criminalizes group insult. Any claim by the owners that these texts were permissible because of their humourist character were rejected. The Supreme Court clarified that the statements of the accused fall under article 137c of the Dutch criminal code.	The Supreme Court confirms the reasoning of the Court of Appeal that the statements were insulting to Muslims and people of Turkish origin. The statements were gratuitously offensive. The Court considered the possibility of whether the statements made by the accused contributed to the public debate or were an expression of art, artistic or humourist endeavor. Ultimately, the Court rejected this possibility.	An appeal to artistic expression (satire) does not preclude the criminality of statements which are obviously insulting to people because of their religion or race.	The Supreme Court confirms the fine the accused received from the Court of Appeal. A fine of 1000 Euro of which 500 Euro were conditional.	"Het Hof is van oordeel dat de terlastgelegde uitlatingen op zichzelf beschouwd al beledigend zijn voor moslims en mensen van Turkse afkomst nu zij daarin worden vergeleken met berberagen respectievelijk kakkerlakken, ratten en vervoerders. Maar ook in de context van de artikelen waarin de beledigende uitlatingen zijn opgenomen, zijn die uitlatingen onmiskenbaar beledigend voor groepen personen wegens hun ras en/of godsdienst. Hoewel in die artikelen hier en daar wordt gesproken van radicaal, terroristen, racisten en extremisten, zijn het overduidelijk steeds moslims (en Turken) die als collectief worden aangepreken, getuige bijvoorbeeld de aanduiding van het aantal moslims in Nederland (een miljoen)." "The court is of the opinion that the alleged statements on themselves are already offensive to Muslims and people of Turkish origin as they are compared monkeys and cockroaches, rats and rapists respectively. But in the context of the articles in which these statements are incorporated, these statements are undeniably offensive to groups of people because of their race and / or religion. Although these articles include some offensive statements about radicals, terrorists, racists and extremists, it is obvious that most statements address Muslims (and Turks), witness, the indication of the number of Muslims in the Netherlands (one million)."

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Austria	2015	Austria / Supreme Court / 1504/15/15 ECLI:AT:OGH0002:2015:RS0130193	https://www.ris.bka.gv.at/Dokument/einzel...	Race/Ethnicity, Religion, Nationality, Gender, Migrant status	Supreme Court (Oberster Gerichtshof, OGH)	The Supreme Court has ruled on a case confirming the lower court sentence of 30 year old Turkish barber who had been sentenced to two years on probation for publishing antisemitic postings on Facebook. He had dignified the Holocaust and in the context of last years Gaza war he wrote "I could kill all Jews. But I'd leave some alive to show you why I killed them" and said that Hitler "was the king of all real men and nobody acknowledged him". Taking into consideration the settled case law that incitement constitutes an aggravating factor, the Supreme Court clarified the legal question of the relation between prohibition of incitement and the aggravating factors for punishment, as well as the prohibition of double-jeopardy, which means that a person cannot be criminally charged for a crime that he or she has been already convicted or acquitted of. The court stated that since incitement does not require motivation as an element to be qualified as crime, such a motivation can be taken into consideration as an aggravating element in the measurement of the punishment.	The motive for incitement is not an element of the crime, as the matter of fact incitement does not require acting on racist grounds. Therefore, the application of aggravation of punishment does not violate the principle of the prohibition of double jeopardy, which means that a person cannot be criminally charged for a crime that he or she has been already convicted or acquitted of. The suggestion that the circumstances which are typically connected with the crime would be considered concerning its punishment and thus, would be covered by the prohibition of double-jeopardy, is not covered by the respective law.	Aggravation in punishment can be applied in cases of incitement. This landmark decision can have a large impact on future cases and on the criminal statistics as there were hardly any crimes on the motivations for incitement.	The court stated that because the crime of incitement does not include its motivation, the application of the aggravating motive can be applied in the measurement of the punishment.	Rechtsatz: "Das Doppelverwertungsverbot ergibt sich aus dem in § 32 Abs 2 erster Satz StGB enthaltenen Gebot, Erschwerungs- und Milderungsgründe nur soweit bei der Bemessung der Strafe zu berücksichtigen („gegeneinander abzuwägen“), als sie „nicht schon die Strafstrahlung bestimmen“. Für letztere bestimmend sind nur substanzionell-relevante Umstände, zu denen das Tatmotiv idR - wenn es nicht ausnahmsweise im Tatbestand genannt ist - nicht zählt. "The argument for i.e., that the defendant cited only scientific studies without his own assessment, does not substantiate the verdict in both objective and subjective terms ("strating up hatred", "insulting"), likewise in III, the blasphemy section (§ 188 StGB) should be questioned in general and, in the specific case, that the satirical aspect of the contribution was clearly in the foreground."
Austria	2015	Austria / Supreme Court / 1504/15/15 ECLI:AT:OGH0002:2015:015050004:15V.0610.000	https://www.ris.bka.gv.at/Dokument/einzel...	Race/Ethnicity, Religion	Supreme Court (Oberster Gerichtshof)	The case concerns online incitement to violence or hatred. The defendant alleged that every Muslim is a possible terrorist. He also stated "Let us finally wake up and remove this cancer from our people's body". He also posted a comment on facebook stating that one has "to prevent the infiltration of primitive races, such as the Negro race and the Turks and Muslims. Moreover, he posted a world map indicating the average IQ - indicating 'mental retardation' of the 'negroid population'. In addition, he posted a picture of a pig on facebook and commented: "The sacred animal of the Muslims. Some claim that it is the reincarnation of the Prophet."	The Supreme Court found that the defendant cited only scientific studies without his own assessment as there were hardly any crimes on the grounds for annulling the verdict ("strating up hatred", "insulting").	One of the key issues is whether citing scientific studies (or pseudo scientific studies) without one's own assessment may fall under incitement to hatred.	The defendant's appeal for nullity has been rejected and the files are being sent to the Higher Regional Court Vienna (Oberlandesgericht Wien - OLG Wien) for it to decide upon the appeals.	"Das Vorbringen zu i.C., der Angeklagte habe nur wissenschaftliche Studien ohne eigene Wertung zitiert, hält ebenso nicht am Wahrspruch in objektiver und subjektiver Hinsicht fest („geteilt“, „geschimmt“) wie die Überlegungen zu III, der Blasphemie-Tatbestand (§ 188 StGB) sei generell zu hinterfragen und im konkreten Fall sei eindeutig der satirische Aspekt des Beitrags im Vordergrund gestanden. "The argument for i.e., that the defendant cited only scientific studies without his own assessment, does not substantiate the verdict in both objective and subjective terms ("strating up hatred", "insulting"), likewise in III, the blasphemy section (§ 188 StGB) should be questioned in general and, in the specific case, that the satirical aspect of the contribution was clearly in the foreground."
Belgium	2015	Belgium / Tribunal of First Instance of East-Flanders section Gent/ G656.12.3657/14/nw3	http://uniba.be/files/ARCHIEF/2015_02...	Religion	Tribunal of First Instance of East-Flanders section Gent (Rechtbank van eerste aanleg Oost-Vlaanderen afdeling Gent)	In 2015, the Tribunal of Gent convicted a man for harassment and discrimination because he ordered and distributed flyers, the painting of slogans on the road, and the hanging up of posters with discriminatory messages such as "STOP ISLAM", "NO JIHAD IN OUR STREET" and "STOP THE RITUAL HALAL SLAUGHTER = 100% BARBARIC". The defendant invoked his freedom of expression, but the Tribunal argued that such freedom is limited by the respect of the constitutional freedoms of others.	The accused argued that he was exercising his right to freedom of expression. The Tribunal said that he cannot rely on freedom of expression. The latter is limited by the constitutional freedoms of others. In this case, it was limited by the freedom of religion, criminal law, and anti-discrimination law. The Tribunal found that the defendant's actions constituted harassment and discrimination, and that his freedom of expression was not absolute.	One cannot rely on freedom of expression in the case of hate speech. Freedom of expression is limited by the constitutional freedoms of others, like freedom of religion, and criminal law.	The accused is sentenced to one hundred and sixty hours of community work and to pay 494,45 euro of compensation fee.	"The messages on the streets, the posters, the stickers and banners incite discrimination - this is a rejection, a disadvantage and a negative treatment - towards a group (muslims) on the basis of their religious belief. The message calling on restricting or prohibiting their constitutional rights to freedom of religion. In view of the declarations of the accused and the above findings, such as the dissemination by him as the leader (...) of the press releases, there is no doubt that he has spread and helped the spread of those messages. The accused cannot be believed when he says he only hung a few banners and posters. The accused cannot rely on the freedom of expression. That freedom is limited by the constitutional freedom of others and by the criminal law, in this case the anti-discrimination law." "De boodschappen op de straten, de affiches, kliefers en spandoeken beogen de discriminatie - dit is een verwerpende onderscheiding, een achterstelling, een negatieve behandeling - aan een groep (muslims) omwille van diens geloofsovertuiging. De boodschappen roepen op om de grondwettelijke vrijheid van eredienst te beperken of te verbieden. Gelet op de verklaring van de beklagde en op de bovenstaande vaststellingen, zoals de verspreiding door hem als actievoerendverantwoordelijke van (...), van de persmededeling, lijkt het verweerd dat hij mede die boodschappen heeft verspreid en helpen verspreiden. De beklagde is ongelofwaardig wanneer hij zegt enkel de spandoeken en affiches te hebben gehangen. De beklagde kan zich niet beroepen op de vrijheid van meningsuiting. Die vrijheid wordt immers begrensd door de grondwettelijke vrijheden van anderen en door de strafwet, in deze de Antidiscriminatiewet."
Bulgaria	2015	ECtHR / Application no. 30587/13 / Judgment / Karaahmet v. Bulgaria	http://hudoc.echr.coe.int/View/?i=001-14...	Religion	European Court of Human Rights, ECtHR	Members of a far right party held a demonstration against Friday prayer sounds being broadcast from a mosque through loudspeakers. Muslim worshippers were insulted and attacked. Karaahmet, a Muslim, was nearby when this incident took place and argued that he suffered psychological harm because of the demonstration. The European Court of Human Rights (ECtHR) found a violation of Article 9 (freedom of thought, conscience and religion) because the Bulgarian authorities failed to balance the right to peaceful assembly with the right to worship, and responded inadequately to a protest.	The Court found that the failure by the domestic authorities to strike a proper balance in the steps they took to ensure the effective and peaceful exercise of the rights of the applicant and the other worshippers to pray together, as well as their subsequent failure to respond to those events, meant that there had been a failure of the State to comply with its positive obligations under Article 9.	One cannot rely on freedom of expression in the case of hate speech. Freedom of expression is limited by the constitutional freedoms of others, like freedom of religion, and criminal law.	The accused is sentenced to one hundred and sixty hours of community work and to pay 494,45 euro of compensation fee.	"In sum, the failure by the domestic authorities to strike a proper balance in the steps they took to ensure the effective and peaceful exercise of the rights of the demonstrators and the rights of the applicant and the other worshippers to pray together, as well as their subsequent failure properly to respond to those events, meant that there had been a failure of the State to comply with its positive obligations under Article 9. There has accordingly been a violation of that article."
Denmark	2015	Denmark / Board of Equal Treatment / KEM no. 10425		Religion	Board of Equal Treatment	The Board of Equal Treatment found that the defendant had harassed the claimant on the ground of race/ethnic origin. The claimant had responded to a sales advert for a car, to which the defendant replied "Fuck you Muslim".	The Board of Equal Treatment found harassment on the ground of race/ethnic origin and reasoned that the defendant knew the name of the claimant, when he wrote "Fuck you Muslim". Therefore it was harassment within the scope of the Racial Equality Directive.	This was the first case where the Board of Equal Treatment found harassment on the ground of race/ethnic origin, regarding access to and supply of goods and services.	Compensation of 5,000 DKK	"Da indklagede skrev "Fuck dig din muslim" til klager, var han bekendt med klagers navn. Der er næret liket vold om, at udtalelsen er udtryk for racisme af klager på grund af dennes etnicitet." "When the defendant wrote "Fuck you Muslim" till the claimant, he was familiar with the claimant's name. Therefore, the Board of Equal Treatment has no doubt as to whether the statement should be considered harassment of the claimant on the ground of his ethnic origin."
Denmark	2015	Denmark / District Court of Svendborg	https://vidensbasen.anklagemyndigheden...	Religion	District Court of Svendborg	The District Court of Svendborg found the defendant guilty of incitement to violence (hate speech). The defendant had participated in a debate on the Facebook page of a group with a Muslim background. The defendant was accused of violating the law by making a statement that threatens, degrades or demeans a group of persons.	The District Court argued that the defendant's statements targeted citizens with a Muslim background. The court found the fact that the defendant was in a public forum, and that the statements were intended to reach a broader audience, to be an aggravating circumstance.	No key issues can be drawn on the basis of this particular case.	5 daily penalties of 500 DKK	"Retten fandt, at udtalelsen var en trussel mod mennesker med muslimsk baggrund. Retten lagde ved straffesatteisen i skærpede retning vægt på, at det i udtalelsen kom ud til en vid bredde af mennesker. I forbindelse retning lagde retten vægt på, at i 15 tekster udtalelsen tilbage indførte 1,2 timer. "The court found that the statement was a threat towards persons with a Muslim background. When assessing the case the court took into consideration on the one hand that the statements reached a broad audience and on the other hand the accused deleted the statement within 1 or 2 hours."
Denmark	2015	Denmark / District Court of Hillerød	https://vidensbasen.anklagemyndigheden...	Religion	District Court of Hillerød	The District Court of Hillerød convicted a man of incitement to hatred (hate speech). The man had written a longer statement on his private Facebook page where he commented on Muslims and among others compared them to being "like Hitler". The District Court found that the defendant had made a post on social media, Twitter, comparing Muslims to the Holocaust and concluding that they should be treated the same.	The District Court found the statements to be very severe and capable of being read by a broader audience.	The court assessed the question of whether statements published on private Facebook accounts could be addressed towards a broader audience and therefore a violation of the criminal code. The statements written by the defendant were published on his private and closed Facebook page and therefore found that to be enough in regard to meeting the criteria of a broader audience.	10 daily penalties of 400 DKK	"Det fremgår af sagen, at den pågældende Facebook-profil var lukket, men at udtalelserne var blevet udbredt til mindst 68 personer. Byretten lagde ved straffudmålingen vægt på udtalelsernes grovhed sammenholdt med omfang af dem kredet af personer, der umiddelbart blev bekendt dermed." "It appeared from the case that the accused's Facebook profile was private, but the statements had been spread to at least 68 persons. When assessing the case the City Court took into account the severity of the statements and the number of persons who immediately became familiar therewith."
Denmark	2015	Denmark / District Court of Randers	https://vidensbasen.anklagemyndigheden...	Religion	District Court of Randers	The District Court of Randers found the defendant guilty of incitement to hatred (hate speech). The defendant participated in a debate on the Facebook page of a Danish newspaper and wrote among other things the following to the victim, "Fuck you, you Quran fascist" and continued with a longer rant.	The District Court found that the defendant's statements targeted not only the victim, but also Muslim citizens of Arabic descent in general.	No key issues can be drawn on the basis of this particular case.	Suspended sentence of 20 days with the condition of 40 hours of community service	"Byretten lagde vægt på, at udtalelserne var fremsat på Facebook som led i den offentlige debat, og at udtalelserne var rettet både direkte mod forurettede men også mere generelt mod en gruppe af personer af arabisk afstamning med muslimsk religion bosat i Danmark og med en anden etnisk oprindelse end dansk." "The City Court took into account that the statements were posted on Facebook as part of the public debate and they were targeting not only the victim but also more generally a group of persons with Arabic descent and Muslim religion residing in Denmark and with another ethnic origin than Danish."
Denmark	2015	Denmark / City Court of Glostrup / SS 1706/2015		Religion	City Court of Glostrup	A Danish politician was found guilty of incitement to violence or hatred. The former member of the Danish Parliament and the European Parliament, and currently a member of the City Council of Glostrup, had made a post on social media, Twitter, comparing Muslims to the Holocaust and concluding that they should be treated the same.	To be convicted for racist remarks, the remarks have to be degrading and stated in a public forum. The politician argued in court that he assumed the post would only be visible to his 67 followers on Twitter, and that this meant that he had not made the statement in a public forum.	All cases are required to have this dual assessment: was the statement severe enough to be considered degrading and hurtful, and were they made in a public forum. In this case, the politician argued mostly that the statement was not made in a public forum, and that the basic right of freedom of speech should protect him.	The politician was found guilty and sentenced to pay a fine of DKK 8000.	No material from the court case itself is available. The statement in question was as follows: "Without the situation of the Jews in Europe, the Muslims are continuing where Hitler left off. Only the treatment Hitler received, will change the situation"
France	2015	ECtHR / Application no. 64846/11 / Ebrahimi v. France	http://hudoc.echr.coe.int/View/?i=001-158...	Religion	European Court of Human Rights- Grand Chamber	The case concerned the decision not to renew the employment contract of a hospital social worker because of her refusal to stop wearing the Muslim veil. Christiane Ebrahimi was recruited on a fixed-term contract within the public hospital service. The Director of Human Resources informed the employee that her contract would not be renewed, an account of her refusal to remove her headscarf and other complaints from patients. The Administrative Court found that the decision not to renew her contract had been in accordance with the principles of secularism and neutrality of public services.	The court considered that the fact that the national courts had afforded greater weight to the principle of secularism-neutrality and the State's interest than to Ms Ebrahimi's interest in not having the expression of her religious beliefs restricted did not cause a problem with regard to the Convention. The Court concluded that the interference with the exercise of her freedom to manifest her religion had been necessary in a democratic society.	The necessity of protecting the rights and liberties of others - that is, respect for everyone's freedom of religion - had formed the basis of the decision in question.	There had been no violation of Article 9 of the Convention.	"The constitutional right of freedom of religion guarantees as well the freedom of teachers in public non-confessional schools to comply with dressing requirements as religious groups like wearing an Islamic scarf. A general ban of religious demonstration (as in §57 (4) NW school law) is disproportionate. A proportionate balance between the freedom of religious expression by teachers versus the neutrality of the school and the negative freedom of religion requires at least a concrete risk for the school situation in the individual case." "Der Schutz des Grundrechts auf Glaubens- und Bekenntnisfreiheit (Art. 4 Abs. 1 und 2 GG) gewährleistet auch Lehrkräften in der öffentlichen bekenntnisfreien Gemeinschaftsschule die Freiheit, einem aus religiösen Gründen als verpflichtet verstandenen Bekenntnisgebot zu genügen, wie dies etwa durch das Tragen eines islamischen Kopftuchs der Fall sein kann. Ein landesweises gesetzliches Verbot religiöser Bekundungen (hier: nach § 57 Abs. 4 SchulG NW) durch das äußere Erscheinungsbild schon wegen der bloß abstrakten Einigung zur Begründung einer Gefahr für den Schulfrieden oder die staatliche Neutralität in einer öffentlichen bekenntnisfreien Gemeinschaftsschule ist unverhältnismäßig, wenn dieses Verhalten nachvollziehbar auf ein verpflichtend verstandenes religiöses Gebot zurückzuführen ist. Ein angemessener Ausgleich der verfassungsrechtlich verankerten Positionen - der Glaubensfreiheit der Lehrkräfte, der negativen Glaubens- und Bekenntnisfreiheit der Schülerinnen und Schüler sowie der Eltern, des Elterngrundrechts und des staatlichen Erziehungsauftrags - erfordert eine einschneidende Auslegung der Verbotssatzung, nach der zumindest eine hinreichend konkrete Gefahr für die Schützlinge vorliegen muss."
Germany	2015	Germany / Federal Constitutional Court Karlsruhe / 1 BvR 471/10 and 1 BvR 1118/10	https://www.hessche.de/de/rechtspraak...	Religion	Federal Constitutional Court (Bundesverfassungsgericht)	(I) A Northrhine-Westphalia (NW) social education worker for conflict mediation (German born in a Turkish family) has been wearing a headscarf at work since 1997. A 2006 amendment to NW school law lead to the school prohibiting headscarves at work; she objected and received written warnings. She filed a court case to void the written warnings; courts at two instances rejected her claim. (II) A teacher in NW wore a headscarf during class. In 2006, the school demanded her to stop wearing it; she refused, received written warnings and was fired. She appealed the decision in court but lost twice.	The amended NW school law refers to Christian and occidental cultural values; this constitutes an unequal treatment on grounds of religion. The previous court decisions did not evaluate the potential concrete risk for the school situation caused by the scarf, as a general rule without consideration of the specific circumstances, the law and the court rulings. The court ruled that constitutional rights of both petitioners.	Negative freedom of religion versus constitutional right for practicing religion. Risk for conflicts in the school situation; infringement of constitutional rights by a general assumption instead of consideration of the concrete circumstances in each case.	Cancellation of all previous rulings in both cases. Annulment of § 57 Abs. 4 Satz 3 SchulG NW (amended NW school law) due to its incompatibility with Art. 3 Abs. 3 (no discrimination) and Art. 33 Abs. 3 (access to public functions irrespective of religious confession, no disadvantage due to religion) German Basic Law.	"The constitutional right of freedom of religion guarantees as well the freedom of teachers in public non-confessional schools to comply with dressing requirements as religious groups like wearing an Islamic scarf. A general ban of religious demonstration (as in §57 (4) NW school law) is disproportionate. A proportionate balance between the freedom of religious expression by teachers versus the neutrality of the school and the negative freedom of religion requires at least a concrete risk for the school situation in the individual case." "Der Schutz des Grundrechts auf Glaubens- und Bekenntnisfreiheit (Art. 4 Abs. 1 und 2 GG) gewährleistet auch Lehrkräften in der öffentlichen bekenntnisfreien Gemeinschaftsschule die Freiheit, einem aus religiösen Gründen als verpflichtet verstandenen Bekenntnisgebot zu genügen, wie dies etwa durch das Tragen eines islamischen Kopftuchs der Fall sein kann. Ein landesweises gesetzliches Verbot religiöser Bekundungen (hier: nach § 57 Abs. 4 SchulG NW) durch das äußere Erscheinungsbild schon wegen der bloß abstrakten Einigung zur Begründung einer Gefahr für den Schulfrieden oder die staatliche Neutralität in einer öffentlichen bekenntnisfreien Gemeinschaftsschule ist unverhältnismäßig, wenn dieses Verhalten nachvollziehbar auf ein verpflichtend verstandenes religiöses Gebot zurückzuführen ist. Ein angemessener Ausgleich der verfassungsrechtlich verankerten Positionen - der Glaubensfreiheit der Lehrkräfte, der negativen Glaubens- und Bekenntnisfreiheit der Schülerinnen und Schüler sowie der Eltern, des Elterngrundrechts und des staatlichen Erziehungsauftrags - erfordert eine einschneidende Auslegung der Verbotssatzung, nach der zumindest eine hinreichend konkrete Gefahr für die Schützlinge vorliegen muss."
Hungary	2015	Hungary / General Attorney's Office / Decision		Nationality	General Attorney's Office (Legfőbbi Ügyészség)	On 21 July 2015, during the peak of the migration crisis in Hungary, a Facebook user posted the following: "Who would like to be involved in some hunting? If you are in the mood, drop me a message!". The comments related to the post - coming from men and women users of Facebook - suggested the preparation of an attempted hate crime targeting refugees and asylum seekers at the southern borders of Hungary. The Civil Liberties Union (Társaság a Szabadságjogokért) reported the conspiracy to the Police, and urged them to start investigating it as a crime of the attempt to commit a violence against a member of the community. The Police refused to initiate a criminal investigation. They argued that the posts and comments did not impose a serious threat to the refugees and asylum seekers. The Civil Liberties Union appealed against this decision and brought the case to the General Attorney's Office.	The Hungarian Criminal Code (Act C of 2012 on the Criminal Code, 2012. évi C. törvény a Büntető Törvénykönyvről) orders the court to punish the attempt of all crimes. However, it is possible to reduce or even neglect the punishment that is otherwise imposed on the perpetrators of finished crimes in the Code (Article 10). The Civil Liberties Union argued that an attempt requires intentional preparatory actions in order to commit a crime, and since the comments contained agreements on places and time for committing various violent actions against the asylum seekers, they constituted an attempt.	The Attorney General had to decide whether the post and the related comments indicating place and time and methods of execution for violent acts against refugees and asylum seekers constituted an attempted violence against a member of the community.	The Attorney General rejected the Union's appeal stressing that there was no indication of violent actions in the comments, and the victims were not properly identified by the Facebook users.	As the Attorney General's decisions and the records of the criminal investigation are not in the public domain, there is no original text available to the decision.
Italy	2015	Italy / Court of Cassation / Decision no. 39906	http://www.asgi.it/wp-content/uploads/2...	Race/Ethnicity, Religion	Court of Cassation (Corte di Cassazione)	The Court of Appeal of Trieste stated that the complainant's electoral propaganda was to be considered a dissemination of racist and discriminatory ideas and convicted him for the criminal offences of 13 October 1975. A candidate for the 2013 EU Parliament election distributed a leaflet showing images and slogans aimed at supporting the idea that immigrants and other ethnic minorities are culturally more inclined to commit crimes. He stressed that his intention was to point out his political commitment to contract crimes and delinquency.	According to the Court of Cassation the decision of the Court of Appeal of Trieste erred in law and the complainant could not be ascribed the criminal offence of propaganda and dissemination of racist ideas. In fact, the concept of propaganda is less generic than the concept of "ideas dissemination", since the first also includes the aim of manipulating recipients' mentality, behaviours and psychology and of gathering consensus towards such ideas. In this respect, the complainant's behaviour can be labelled as propaganda because its aim was to foster public consensus and to be elected; nonetheless, the propaganda was not directed against specific minority groups but against the criminal conducts of some of their members. Of course the political idea on which the propaganda was based was that these groups were more inclined at committing such crimes but this opinion is conveyed in a particular context, that is the electoral campaign. For this reason, the Court of Cassation - having to balance the right to non-discrimination with the right of expression of opinions and ideas - decided not to consider the complainant's conduct as racist propaganda.	This decision is important because the Court contributed to the interpretation of the concept of "racist propaganda" and to set boundaries to the conducts that can be considered criminally relevant. Moreover, the Court recalled the most important decisions concerning this issue of both Italian and European courts. Finally, the Court set criteria for the correct balance of the right to express ideas and opinions, the protection of human dignity and the right to non-discrimination.	The complaint has to be considered legitimate: the decision of the Court of Appeal of Trieste is to be considered not valid.	Point 11 of the decision: "Appare evidente, infatti, che il messaggio del volantino era quello di propagandare un'avversione non verso i soggetti sullo stesso raffigurati in maniera caricaturale, ma verso le attività illecite dagli stessi posti in essere. Siamo di fronte, evidentemente, ad un messaggio politico che risente di un pregiudizio per cui determinate attività delittuose vengono poste in essere prevalentemente dai membri di determinate etnie [...] Tuttavia, nel necessario bilanciamento di interessi costituzionalmente protetti di cui si è detto, da operare di volta in volta rispetto al caso concreto, appare nell'occasione privare il diritto alla libera manifestazione del proprio pensiero politico, nell'ambito di una competizione elettorale [...] L'obiettivo ricorrenza non appare pregiudizialmente ostile a determinate etnie in quanto tali. Nella sua visione lo è perché ricompre alle stesse lo svolgimento di determinate attività illecite." "In fact, it seems evident that the message conveyed by the leaflet was to propagandise an aversion not towards the subjects portrayed on it, but towards the criminal activities they carry out. This is largely a political message based on the prejudice that some criminal activities are carried out mainly by the members of specific ethnic groups [...] nonetheless, in the necessary balance between constitutionally guaranteed interests, which has to be assessed case by case, it seems that in this occasion the right to the expression of political opinions has to prevail, in the context of an electoral competition"

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Netherlands	2016	Netherlands / District Court Overijssel / Case no. 08/952265-16 ECLI:NL:RBDOVE-2016-4134	http://deoplink.rechtspraak.nl/vbspraak...	Religion	District Court Overijssel (Rechtbank Overijssel)	On 27 February 2016, five extreme right men attacked a mosque in the city of Enschede by throwing Molotov cocktails. Approximately 30 people, including children, were inside the mosque at that time. Nobody was injured in the attack and it did not cause serious damage to the mosque. Motivation for these attacks was to cause anxiety among Muslims and to stop the municipality opening a new reception centre for asylum seekers. The court convicted the five men, stating the attack had "terrorist characteristics." Four of the men were given sentence of four years imprisonment, one of which was conditionally suspended. The fifth man had two years of his prison sentence conditionally suspended because he showed remorse.	The court decided that the accused acted with terrorist motives when they decided to burn a mosque with molotov cocktails. They were inspired by extreme right wing and racist thoughts and wanted to cause major anxiety among mosque-goers in Enschede in particular and within the Dutch Muslim community in general. Their attempt to burn a mosque constituted an act of terrorism.	This verdict clarifies that attacks on Muslim targets like mosques, which are motivated by inspiring fear, are terrorist attacks and carry heavy penalties.	Attacks to inspire fear like in this case constitutes an arson attack on a mosque and thus, carry heavy penalties. In this case, all of the accused were punished by imprisonment. The court convicted four of the five men to four years imprisonment one of which was conditionally suspended. The fifth man has two years of his prison sentence conditionally suspended because he showed remorse. The lawyer of the accused asked for a lower sentence, arguing that the incident was not an act of terrorism. He pointed to the clumsy way the arson was carried out - no one was injured and one of the persons present in the mosque managed to extinguish the fire before serious damage was done. But the court did not follow the argument of the defendant's lawyer.	"Verdachte en zijn medeverdachten hebben gezamenlijk besloten om de moslimgemeenschap en de gemeente Enschede angst aan te jagen met als doel de gemeente te laten afzien van de komst van een asielzoekerscentrum in Enschede. Daarvoor hebben zij geprobeerd om met molotovcocktails een moskee in brand te steken. Door op deze wijze hun rechts-extremistische en racistische gedachtegoed uit te dragen hebben zij een grote angst teweeg gebracht zowel bij de moskeegangers te Enschede in het bijzonder als bij de Nederlandse moslimgemeenschap in het algemeen. Dat het bij een poging brandstichting is gebleven is niet de verdediging van verdachte en zijn medeverdachten geweest, maar van een alere voorliggende die de brand teweeg liet uit te trappen. Brandstichting betreft, getuig op het gewaar zettende en onvoorspelbare karakter ervan, een zeer ernstig misdrijf dat levens en eigendommen bedreigt en bovendien grote maatschappelijk onrust doet ontstaan. Verdachte heeft bij het plegen van de feiten op geen enkele wijze rekening gehouden met de risico's waaraan anderen daardoor zijn blootgesteld. Felten als deze houden een ernstige beschadiging en ontregeling van de rechtsorde in, met name als die worden gepleegd met een terroristisch opzet."
Netherlands	2016	Netherlands / District Court Midden-Nederland / Case no. 16/652077-16 ECLI:NL:RBMNE-2016-5414	http://deoplink.rechtspraak.nl/vbspraak...	Religion	District Court Midden-Nederland (Rechtbank Midden-Nederland)	On 11 October 2015 during a Pegida demonstration a woman said during her speech: "Another reason to despise and hate Muslims is their insane ideology. Because it's never the religion of peace." She placed her speech in written form on her Facebook-page. The court decided that that woman has been publicly guilty of insult, incitement to hatred, and the discrimination of Muslims. The court sentenced the woman for insulting a group and inciting hatred and discrimination against Muslims. She was sentenced to a fine of 1000 euro, of which 50% was conditional.	The court decided that the accused made public statements including hatred and discrimination of Muslims.	This verdict clarifies that public statements expressing hatred of Muslims and/or inciting discrimination of Muslims carry a penalty under Dutch criminal law.	Making public statements including and inciting	"Verdachte gebruikt in haar uitspraak letterlijk de woorden "veracht" en "haten" en maakt daarbij anders dan door de verdediging is betoogd, geen onderscheid tussen religie en ideologie. Deze termen zijn, zeker in combinatie, ongevoelig voor krachting dat daarmee aangevoerd wordt tot haat. Door de uitspraak van verdachte worden moslims als groep weggevoerd en in een kwaad daglicht gesteld. De rechtbank acht derhalve wettig en overtuigend bevestigd dat verdachte zich in het openbaar schuldig heeft gemaakt aan het aanzetten tot haat tegen een of meerdere moslims (ten minste: mede) hun preventie."
Netherlands	2016	Netherlands / District Court North Holland / Case no. 15-155584-15 (P) ECLI:NL:RBNO-2016-6338	http://deoplink.rechtspraak.nl/vbspraak...	Religion	District Court North Holland (Rechtbank Noord-Holland)	A Facebook user placed statements on a public Facebook page that were insulting to a group of people because of their religion (in particular Muslims), as evidenced by the reaction of other Facebook users. An example of a statement made by the suspect: "Just fuck off with those dirty filthy stinking Muslims who just fuck goats and want to rape our women, because their wives are too dirty!" The user later renounced these statements and recognizes that these statements are very offensive to Muslims.	Making insults on public social media which hurt social groups based on their religion for race, gender, sexual orientation and disability is a criminal behaviour. Such statements create a social climate which encourages discrimination of religious groups. Therefore, such statements are forbidden under Dutch criminal law.	This verdict makes clear that certain groups of persons are protected by Dutch criminal law against insulting and hurting statements made on social media which are accessible to the general public.	The court decided to convict the suspect to a fine of 300 Euro under article 137c of the Dutch Criminal Code which criminalizes insult on the ground of religion.	"Verdachte heeft zich schuldig gemaakt aan het beledigen van een groep mensen wegens hun godsdienst, namelijk moslims, op een openbare Facebookpagina. Deze uitspraken zijn zeer kwetsend, hetgeen ook blijkt uit enkele reacties die daarop gekomen zijn van andere Facebookgebruikers. Het kwetsen van anderen vanwege ras, godsdienst of seksuele geaardheid - kortom het weten van een persoon - is verwerpelijk en past niet binnen een samenleving waarin iedereen zich - ongeacht ras, geaardheid, godsdienst of godsdienstovertuiging - veilig moet kunnen voelen en in vrijheid de hem of haar toekomende burgerrechten moet kunnen genieten. Hetgeen de noodzaak tekent van het bevestigen van discriminatie op basis van godsdienst. De uitspraken van verdachte dragen daarentegen bij aan een klimaat waarin de kans op een discriminerende en geweldsrijke bejegening van moslims groter wordt. Dit is verdedigbaar te nemen, zodat de op te leggen straf verdedigbaar dient te maken hoewel de samenleving zijn uitdagingen voorvecht en verachting. Tevens dient deze straf ter algemene preventie."
Netherlands	2016	Netherlands / Court of Appeal Amsterdam / Case no. 23-003966-13 ECLI:NL:GHAMS-2016-828	http://deoplink.rechtspraak.nl/vbspraak...	Religion	Court of Appeal Amsterdam (Gerechtshof Amsterdam)	In a documentary about the Dutch politician Geert Wilders a man, presented as a follower of Geert Wilders, spoke about Arabs as "fervent ass crackers" (fervent kontenbokers), who also "fuck young boys". According to him this is not constitutive an insult of Muslims on the ground of their religion, under Article 137c of the Criminal Code. The court believed that the accused meant Muslims when he talked about Arabs and thus, he stood trial for publicly and intentionally insulting Muslims on the ground of their religion.	The court considered that the statements were unmistakably insulting. The court also considered, on the other hand, that the statements of the accused were made during a public debate, more specifically during an interview before an anti-Islam demonstration. According to the court it cannot be said that these statements serve no useful purpose in public debate. The court was ultimately whether the expressions used were gratuitously offensive. If so, the context of the public debate overrules the insulting character of the statements. The court answered that question in the negative, stating that everyone who wants to raise topics of common interest should be free to do so, even if the statements are offensive, shocking or disturbing.	A statement about a group is insulting if it impairs the self-respect or honour of the group, or discredits the group, because it belongs to a particular race, religion or belief. The context is particularly important for the determination of liability under Article 137c. If the statements were made in the context of, for example, a public debate, this can reduce the punishable insulting-character of the statement. However, this is only when the statements are not gratuitously offensive. The court answered that question in the negative, stating that everyone who wants to raise topics of common interest should be free to do so, even if the statements are offensive, shocking or disturbing.	Statements which are insulting to a religion are not punishable under Article 137c of the Criminal Code. If these statements serve a purpose in public debate and are not gratuitously offensive.	"Ten slotte dient onder ogen te worden gezien de de uitspraken in dat verband onnodig grievend zijn te noemen. Het Hof beantwoordt deze vraag ontkennend. Degenen die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn opzichte van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontvreden. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte verondersteld te worden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat dat laatste ook zijn belediging was. Het is niet de bedoeling van de wetgever om te voorkomen dat in deze contexten zich wel vaker door provoceren of onsmakelijk taalgebruik van de deelnemers aan dat debat."
Poland	2016	Poland / Instance: Regional Court in Białystok / Ref. no. VII K 285/14 / II Instance: District Court in Białystok / Ref. no. VIII Ka 157/16	http://deoplink.rechtspraak.nl/vbspraak...	Religion	I instance: Regional Court in Białystok, II instance: District Court in Białystok	In the period of 2009-2011, the accused was posting offensive statements on various internet websites, inciting hatred towards Chechens and insulting them due to their religion, nationality and migration status (refugees and asylum-seekers).	The Regional Court established that comments of the accused posted on the internet directly concerned Chechens and that words used by the accused in the public discourse were clearly pejorative and abusive within the meaning of Article 257 of the Criminal Code. The accused aimed at discrediting the Chechen minority as a nation and to demonstrate the superiority of the Polish nation over them. The accused lodged an appeal. However, the District Court upheld the judgement of the I instance court.	The right to freedom of expression is not unlimited.	The accused was sentenced to 3 months of imprisonment. The sentence was suspended for the probation period of 2 years.	"Ten slotte dient onder ogen te worden gezien de de uitspraken in dat verband onnodig grievend zijn te noemen. Het Hof beantwoordt deze vraag ontkennend. Degenen die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn opzichte van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontvreden. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte verondersteld te worden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat dat laatste ook zijn belediging was. Het is niet de bedoeling van de wetgever om te voorkomen dat in deze contexten zich wel vaker door provoceren of onsmakelijk taalgebruik van de deelnemers aan dat debat."
Poland	2016	Poland / Instance: Regional Court Poznan-Grunwald and jezycie in Poznan / Ref. no. II K 109/16 / II Instance: District Court in Poznan / Ref. no. XVII Ka 1098/16	http://deoplink.rechtspraak.nl/vbspraak...	Religion	I instance: Regional Court Poznan, II instance: District Court in Poznan	On September 12, 2015 during the football match, the accused used a loudspeaker and publicly insulted Muslims. He was encouraging other fans to sing an insult song about Muslim refugees using words commonly considered as vulgar, which they did.	The Regional Court established that the crime fell under Article 257 of the Criminal Code (public insult to a group of people or an individual because of their nationality, ethnic origin, race or religion). The court was ultimately whether the expressions used were gratuitously offensive. If so, the context of the public debate overrules the insulting character of the statements. The court answered that question in the negative, stating that everyone who wants to raise topics of common interest should be free to do so, even if the statements are offensive, shocking or disturbing.	The right to freedom of expression is not unlimited.	The accused was sentenced to 7 months of the restriction of liberty and 20 hours of the community work every month during this period.	"Ten slotte dient onder ogen te worden gezien de de uitspraken in dat verband onnodig grievend zijn te noemen. Het Hof beantwoordt deze vraag ontkennend. Degenen die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn opzichte van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontvreden. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte verondersteld te worden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat dat laatste ook zijn belediging was. Het is niet de bedoeling van de wetgever om te voorkomen dat in deze contexten zich wel vaker door provoceren of onsmakelijk taalgebruik van de deelnemers aan dat debat."
Slovakia	2016	Slovakia / District Court Žilina / 297/11/2015	https://libran.justice.sk/informacni-info...	Race/Ethnicity, Religion, Nationality	District Court Žilina (Okresný súd Žilina)	The defendant made a public advertisement in 2015 offering a job stating - "shooting of immigrants in the accommodation facility for 25 Euro/person". In addition, he published a video on his social media profile voicing hatredful speech against migrants, specifically Muslims and people of migrant origin (including Syrians and Libyans).	The Court case concerns the approval of a plea bargain (including waiver of defendant's right to a public trial) between the prosecutor and the accused. The accused pleaded guilty of incitement to limitations of rights and freedoms of a particular nation and nationality and pleaded guilty of public defamation of a religious group and making of an extremist material.	N/A	The accused was sentenced to 3 months of imprisonment. The sentence was suspended for the probation period of 2 years.	"Ten slotte dient onder ogen te worden gezien de de uitspraken in dat verband onnodig grievend zijn te noemen. Het Hof beantwoordt deze vraag ontkennend. Degenen die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn opzichte van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontvreden. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte verondersteld te worden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat dat laatste ook zijn belediging was. Het is niet de bedoeling van de wetgever om te voorkomen dat in deze contexten zich wel vaker door provoceren of onsmakelijk taalgebruik van de deelnemers aan dat debat."
Slovakia	2016	Slovakia / Regional Court in Bratislava Šamko, P. (2016), Prime Minister, Freedom of Speech and a Compact Muslim Community (Predseda vlády, sloboda prejavu a ucelená moslimská komunita), Právne listy	http://www.pravnylisty.sk/vychodnyta14...	Religion	Regional Court in Bratislava	The complainant in the criminal complaint brought to the Prosecutor's Office argued that the Slovak Prime Minister committed a crime of public defamation, incitement to hatred and intimidation. The complainant referred to public statements of the PM calling for preventing the formation of a "compact Muslim community" and stating "we do not want our women to be harassed in public space". The Regional Prosecutor refused the criminal complaint.	Freedom of expression - even if the PM's speech might be seen as degrading to some people, it is still within the limits of freedom of expression (as also according to jurisprudence of the ECtHR or Federal Constitutional Court of Germany)	None sanctions. The initiation of prosecution has been refused.	"Ten slotte dient onder ogen te worden gezien de de uitspraken in dat verband onnodig grievend zijn te noemen. Het Hof beantwoordt deze vraag ontkennend. Degenen die, zoals hier, in een politieke context zaken aan de orde wenst te stellen die in zijn opzichte van algemeen belang zijn, dient daartoe daadwerkelijk in staat te zijn, ook als zijn uitspraken kunnen kwetsen, choqueren of verontvreden. Het gaat in dit geval weliswaar om niet onderbouwde, door de verdachte verondersteld te worden over moslims in het algemeen die hij in onsmakelijke bewoordingen te berde heeft gebracht - en dat dat laatste ook zijn belediging was. Het is niet de bedoeling van de wetgever om te voorkomen dat in deze contexten zich wel vaker door provoceren of onsmakelijk taalgebruik van de deelnemers aan dat debat."	
Spain	2016	Spain / National Ombudsman (Defensor del Pueblo) (2016), 2015 National Report (Informe anual 2015), pp.300-301	https://www.defensoridelpueblo.es/wp-con...	Race/Ethnicity, Nationality, Religion	National Ombudsman (Defensor del Pueblo)	The report of the Ombudsman reflected that citizens raised concerns about the way a newspaper reported on the Mellilla events stirring fear to migrants in what could be a crime of incitement to hatred under article 510 C. An Ombudsman file was opened after numerous complaints requesting its intervention about the attempts of immigrants to irregularly climb the Mellilla fence when the migrants were arrested and immediately after returned through the so-called "hot expulsion" (devoluciones en caliente). The complainants claimed that the refoulement practices had left at least two people unconscious after the Mellilla fence jump. The Chief of the Mellilla Civil Guard in charge of the operation at the fence was later in the year indicted for the so-called "hot expulsions". In its Annual Report 2015, the Ombudsman mentions concerns about the enforcement of the legislation in regard to discrimination and incitement to hatred on the grounds of race that led to the request for information to the Public Prosecutor. The Ombudsman case was concluded after the Public Prosecutor's office informed that no proceedings had been initiated.	It was concluded that discrimination and provocation to hatred against foreign nationals for racist reasons, as of art.510 of the Criminal Code, may be taking place. This is in line with a previous Ombudsman recommendation (action nº 15009544) addressed to the Ministry of the Interior on security citizen's protection and rights of the foreigners within the return (devoluciones en caliente) process.	The case investigated discrimination and incitement to hatred against foreign nationals for racist reasons, as of art.510 of the Criminal Code, regarding the attempts of irregular entry of immigrants in the Mellilla fence. The Ombudsman questioned the legality and constitutionality of the special regime applicable in Ceuta and Melilla at the moment of the foreigners return (devoluciones) process and the protection of the immigrants' rights, asking for a regulatory development of the special regime for Ceuta and Melilla (action nº 15009544) and for stopping the illegal expulsions.	The Ombudsman reported on the case as completed after submission of recommendations to the public authority. The Mellilla Area Public Prosecutor reported that pre procedural proceedings had not been initiated. Information published in the 2015 Spanish Ombudsman National Report (Informe anual 2015 Defensor del Pueblo), pp.301	"La Fiscalía de Área de Melilla informó de que no se habían iniciado diligencias preprocesales y el Defensor del Pueblo concluyó sus actuaciones." "The Mellilla Area Public Prosecutor reported that pre procedural proceedings had not been initiated and the Ombudsman concluded its actions"
Sweden	2016	Sweden / Scania and Blekinge Court of Appeal / Case number 1157-15		Religion	Scania and Blekinge Court of Appeal (Hovrätten över Skåne och Blekinge)	A health care provider was found guilty of discrimination on the ground of religion after an incident where a doctor did not examine a Muslim woman who did not speak when she was in the examination room. her friend stated that the plaintiff said "hi". Furthermore, the Court questioned the reliability of the witness statement since the sequence of events was of short duration. The Court stated that the interpreter most likely had been primarily focused on the interpretation. According to the ruling of the Court, the Discrimination Ombudsman had not been able to show that the doctor had indeed discriminated the plaintiff, that is, the Ombudsman had not been able to convince the Court of the probability of the alleged crime. The charges against the health company were dismissed.	The key issue concerned to what extent discriminated parties have to prove that it is likely that another person or company has discriminated against them, when one person's word stands against another's. The differences between the rulings of the District Court and the Court of Appeal show that the same case material can be interpreted so differently that the first instance finds that the plaintiff had been discriminated on the grounds of her religion, while the second level finds minor discrepancies in the statements supporting the claim of the injured party sufficient to consider that it has not been proven that the incident was a case of discrimination. The legal counsel of the Discrimination Ombudsman commented that the ruling showed the difficulty of bringing a discrimination case before the court when the only evidences are the statements of the parties and the witnesses.	The Court of Appeal changed the verdict of the District Court and dismissed the Ombudsman's action. The Court released the health care company from the obligation to reimburse the Discrimination Ombudsman for the costs of processing in the District Court. Instead, the Discrimination Ombudsman was obligated to reimburse the health care company for its costs for processing in the District Court with 335,243.50 SEK (15,047 Euro) and another 25,000 SEK (1,041 Euro) for its costs for the processing in the Court of Appeal.	"16 kap. 3 diskrimineringslagen finns en bestämmelse om bevisbördan i diskrimineringsmål. Bestämmelsen innebär att den som anser sig ha blivit diskriminerad ska visa omständigheter som ger anledning att anta att han eller hon har blivit diskriminerad. Därefter går bevisbördan över till den som påstås ha diskriminerat, som då har att visa att diskriminering inte har förekommit. Avskänt är att den som anser sig ha blivit diskriminerad ska årligen bevisförklara." "Chapter 6, Section 3 of the Discrimination Act contains a provision on the burden of proof in discrimination cases. The provision stipulates that the person who considers him/herself discriminated against must show circumstances that give grounds for believing that he or she discriminated. Thereafter, the burden of proof moves to the allegedly discriminating person, who has to show that the discrimination did not occur. The intention is that the person who considers him/herself discriminated against should not bear the burden of proof." "Sammanfattning avsett hänses att i Diskrimineringsombudsmannens inle var visat omständigheter som ger anledning att anta att Z.B. blivit diskriminerad på det sätt som påstås."	

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Belgium	2017	Belgium / ECtHR / Application no. 34367/14 / Belkacem v. Belgium	http://hudoc.echr.coe.int/eng?i=0011373_	Religion	European Court of Human Rights, ECtHR	The case concerned the conviction of Mr Belkacem, the leader and spokesperson of the organisation "ShariaBelgium", 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. The Court noted that in his remarks he had called on viewers to overpower non-Muslims, teach them a lesson and fight them. The Court considered that the remarks in question had a markedly hateful content and that Mr Belkacem, through his recordings, had sought to stir up hatred, discrimination and violence towards all non-Muslims.	The Court was in no doubt as to the manifestly 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 violent incitement was incompatible with the values of tolerance, social peace and non-discrimination underlying the Convention. Mr Belkacem could not claim the protection of Article 10.	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". 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.	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.	"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".
Belgium	2017	Belgium / Court of Cassation / S.12.0962.N	http://www.luridat.just.fgov.be/afspag	Religion	Court of Cassation of Belgium (Hof van Cassatie van België)	A muslim receptionist was dismissed by the defendant as she refused to conform to the unwritten rule in force in the company, which imposed a prohibition on carrying outward signs of a political, philosophical or religious belief. The Labour Court of Antwerp had ruled that a security firm did not commit abuse of law by dismissing a receptionist who wanted to combine a modest headscarf with her uniform.	The Court of Cassation states that an employer is liable under civil law as soon as anti-discrimination law is violated. The Labour Court did not have to check whether the employer made a mistake or was negligent, but it had to test the employer's neutrality policy against the possibilities of justification under anti-discrimination law. Measures that discriminate indirectly can only be justified if three conditions are met: they must pursue a legitimate aim, the measures must be necessary and appropriate to reach that goal, and they must be proportionate to the pursued goal.	The Court confirmed that the dismissal based on neutrality policy does not constitute direct discrimination. This is in line with the judgment of 14 March 2017 of the Court of Justice, in response to a question from the Court of Cassation in this case. There, the Court of Justice ruled that that the prohibition on wearing an Islamic headscarf, which results from an internal rule of a private company providing for a prohibition on the visible wearing of any political, philosophical or religious sign at work, does not constitute direct discrimination based on religion or belief within the meaning of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.	The Court of Cassation set aside the judgment of the Labour Court of Antwerp of 23 December 2011, with the exception that the dismissal based on neutrality policy does not constitute direct discrimination. The case is referred to the Labour Court of Ghent.	"Bij gebrek aan een beoordeling in concreto van de vraag of er binnen de onderneming van verweerster discriminatie behoeft te bestaan op ter vrijwaring van een vreedzame arbeidsomgeving maatregelen te nemen, enerzijds, en van de vraag of het hiertoe opgelegde verbod op het dragen van uiterlijke tekenen van religieuze overtuigingen op de werkvloer proportioneel is met het nastreefde doel, anderzijds, kon het bestreden arrest bijgevolg niet wettig besleuten dat indien er sprake zou zijn van indirecte discriminatie, deze objectief en redelijk gerechtvaardigd is waardoor het hiertoe gemaakte ontslag van eerste eisster niet onrechtmatig is en geen misbruik van ontslagrecht inhoudt." "In the absence of a specific assessment of whether there was a real need within the defendant's company to take measures to safeguard a peaceful working environment, and whether the prohibition imposed for that purpose on wearing external signs of religious beliefs in the workplace are proportional to the objective pursued, on the other hand, the judgment under appeal could not lawfully decide that if there were indirect discrimination, it would be objective and reasonably justified, so that the dismissal of the first plaintiff based on it would not be unlawful and would not abuse of dismissal law."
Denmark	2017	Denmark / The District Court of Viborg	https://vidensbasen.anklagemyndigheden.dk	Religion	National city court (Retten i Viborg)	The defendant participated in a debate on another person's Facebook page where the following was written: "They ask, how we solve temp in dk? Easy free hunt on all Muslims, like you shoot goats." To that the defendant wrote "You just say when you start to gas the shit, would be a pleasure to join in".	The court found him guilty of violating § 266 b, section 1 in the criminal code as the statement contained a serious threat against Muslims. It was taunting and demeaning. The statement was suited to create intolerance and mistrust as well as it was suited to incite to hate crimes against Muslims.	No key issues can be drawn on the basis of this particular case.	8 daily penalties of 625 DKK. The court found the defendant guilty of violating § 266 b, section 1.	"I siger lige til hvornår i begynder at gasset tortet, vil gerne ha en fornøjelse at være med". "You just say when you start to gas the shit, would be a pleasure to join in".
Denmark	2017	Denmark / The District Court of Frederiksberg	https://vidensbasen.anklagemyndigheden.dk	Religion	National court (Retten i Frederiksberg)	The defendant participated in a debate on a newspaper's webpage. The defendant wrote "Denmark is not free before the last dirty Muslim naz-pig is eliminated"	The lower court found him guilty of violating § 266 b, section 1 and § 119, section 1 in the criminal code.	No key issues can be drawn on the basis of this particular case.	Suspended sentence of 30 days imprisonment and 8 daily penalties of 500 DKK. The lower court found the defendant guilty of violating § 266 b, section 1, and § 119, section 1. In the sentence the court took the defendant's age and personal circumstances into consideration.	"Danmark er ikke frit før det sidste beskidte muslimske nazivn er udrøddet". "Denmark is not free before the last dirty Muslim naz-pig is eliminated".
Denmark	2017	Denmark / The District Court of Randers	https://vidensbasen.anklagemyndigheden.dk	Religion	National court (Retten i Randers)	The defendant wrote a comment on an article on Facebook about 8,000 Muslims celebrating the end of Ramadan with an anti-party in Copenhagen. The defendant wrote "A very good opportunity to ... you know what ... BOOM".	The court found him guilty of violating § 266 b, section 1 and § 136, section 1 in the criminal code. Taking the context of the statement into consideration, the lower court found that the defendant had incited that a serious crime be committed. The lower court further found that the statement was suited to threaten a group of people on the basis of their religion.	No key issues can be drawn on the basis of this particular case.	Suspended sentence of 60 days imprisonment. The lower court found the defendant guilty of violating § 266 b, section 1 and § 136, section 1 in the criminal code. Concerning the sentencing the court stated that the violations were committed in July 2015, and that it was not the defendant's fault that the court case was not pursued within reasonable time. The court found that the sentence should be suspended.	"En rigtig god mulighed for at ... You know what ... BOOM". "A very good opportunity to ... you know what ... BOOM".
Finland	2017	Finland / District Court of Oulu / R.162412		Religion	The District Court of Oulu (Oulun käräjäoikeus / Uleåborgs tingsrätt)	The leader of the Finns Party Youth, Sebastian Tynkynen, was convicted of incitement to hatred and the breach of the sanctity of religion. In his Facebook-writing, Mr. Tynkynen demanded that Muslims be rooted out from Finland and stated that every Muslim is a potentially aggressive criminal.	The court found him guilty of violating § 266 b, section 1 and § 136, section 1 in the criminal code. The court found that the defendant had incited that a serious crime be committed. The lower court further found that the statement was suited to threaten a group of people on the basis of their religion.	The court referred to the case law of the European Court of Human Rights and stated that political parties have the right to present their views about problems related to immigration in public even if these views might offend, shock or disturb someone. However, it is essential that politicians refrain from making public statements which are likely to foster intolerance.	Mr. Tynkynen was sentenced to 50 day fines (300 euros).	"Terveetönä voidaan todeta, että artikkelin 12 §:n 1 momentin sekä ihkoluokkusuosituksen 10 artiklan takaama sananvapaus ei sisällä tarkoitusta, että jokaisella olisi vapaa oikeus sen nojalla esimerkiksi julkisesti uhata, painatella tai solvata jatkain ihmisiyhmiä heidän uskontoonsa perustella." "In the Facebook posting written and made available to the public by Teuvo Hakkarainen it is claimed that all terrorists are Muslims. By making this claim the defendant has made a generalisation of all Muslims as criminals. The defendant could have presented his opinion and criticism of immigration policy without making this kind of defaming and insulting generalisation."
Finland	2017	Finland / District Court of Keäki-Suomi / R.162618		Religion	The District Court of Keäki-Suomi (Keäki-Suomen käräjäoikeus / Mellersta Finlands tingsrätt)	A member of the Finnish Parliament, Teuvo Hakkarainen, published a text in Facebook in which he stated that all terrorists are Muslims. Moreover, he demanded that all Muslims be removed from Finland and their entry into the country must be restricted. Mr. Hakkarainen was convicted of incitement to hatred.	The court stated that the defendant has in his text generalised that all Muslims are criminals and that he could have presented his criticism of immigration policy without making this kind of defaming generalisation. Moreover, the demand for removal of Muslims from Finland has created a threat of unlawful actions against Muslims. The court concluded that even harsh criticism of immigration policy does not as such constitute a criminal offence. However, threatening, defaming and insulting a group of people is punishable.	The court concluded that even harsh criticism of immigration policy does not as such fulfil elements of a crime. However, threatening, defaming and insulting a group of people is punishable.	The court concluded that as compared to other similar crimes and verdicts, this case is less severe. The Facebook posting was a sudden reaction to the terrorist attacks in Nice and Mr. Hakkarainen has himself admitted that the statement was inflammatory. The court sentenced Mr. Hakkarainen to 20 day fines (1160 euros) and ordered that the Facebook-text is deleted. (After the verdict Mr. Hakkarainen continues to be a member of Parliament and he was recently elected one of the vice chairpersons of the Finns Party.)	"Teuvo Hakkarainen lausunnissa ja yleisön saataville asettamassa facebook-viestössä väitettiin, että kaikki terroristit ovat muslimeja. Tällä väitteellä vastataan on yleisään väittänyt islamiuskontoa tunnustavista ihmisistä rikollisiksi. Vastaus olisi pystynyt esittämään mielipiteensä ja ilmaisemaan maahanmuuttopolitiikkaan kohdistuvaa arvostusta ilman tällaista väittänyt ja herjaavaa yleistystä." "In the Facebook posting written and made available to the public by Teuvo Hakkarainen it is claimed that all terrorists are Muslims. By making this claim the defendant has made a generalisation of all Muslims as criminals. The defendant could have presented his opinion and criticism of immigration policy without making this kind of defaming and insulting generalisation."
France	2017	France / Court of cassation / Decision No. 15-87415 ECLI:FR:CCASS:2017:000492	http://www.legifrance.gouv.fr/affichar	Religion	Court of cassation (Cour de cassation)	Following the publication, on 1 March 2013, on the site www.bvonline.com of a text entitled "What do we do with Muslims once the Koran has been banned?", the public ministry ordered Mr. X., director of website, and Mr. Z., author of the text, to appear directly before the criminal court, on the grounds of incitement to discrimination, hatred or violence towards a group of people because of their origin or their membership of an ethnic group, a race, a religion or a given nation, and of complicity in this. The Court of Appeal upheld the ruling of the criminal court by sentencing them to pay a €1000 fine.	The Court of cassation considered that the Court of Appeal justified its decision, since it stated that the publication of a text targeting Muslims and describing a situation, dreamed by the author according to the passage which precedes it, of a State where the public practice of their religion would be banned and of those who would not comply with this rule would be expelled from the country, constituted an offence and that the exercise of the freedom of expression can be subject to restrictions or sanctions which constitute, as in this case, measures necessary in a democratic society, for the protection of public order and the protection of the rights of others.	Actions constituting the offence of incitement to discrimination, hatred or violence with regard to a person or a group of people on grounds of their origin or their membership or their non-membership of an ethnic group, a nation, a race or a given religion.	The Court of cassation upheld the ruling of the Court of Appeal convicting the director and the author to €1000 fine.	"La publication d'un texte visant les musulmans et décrivant la situation, rêvée par l'auteur ... d'un Etat où serait proscrie la pratique publique de leur religion et expulsés du territoire national ceux qui ne respecteraient pas cette prescription, constituait le délit prévu par l'article 24, alinéa 8, devenu l'alinéa 7, de la loi du 29 juillet 1988 et que l'exercice de la liberté d'expression, proclamée par l'article 10 de la Déclaration, peut être soumis à des restrictions ou sanctions qui constituent ... des mesures nécessaires, dans une société démocratique, à la défense de l'ordre et à la protection des droits d'autrui." "The publication of a text targeting Muslims and describing a situation which the author had dreamed of publication and the author to €1000 fine."
France	2017	CJEU - C-181/15 / Judgment / Aama Bougnaoui v. Micropole SA	http://eur-lex.europa.eu/uris/document.uri	Religion	Court of Justice (Grand Chamber)	The case concerns the Micropole Univers SA's ("Micropole") dismissal of Ms Bougnaoui because of her refusal to remove her Islamic headscarf when she was sent on assignment. Ms Bougnaoui considered the dismissal to be discriminatory. The Tribunal ordered Micropole to pay compensation in respect of her period of notice because it had failed to include in its letter of dismissal the gravity of Ms Bougnaoui's alleged misconduct, and dismissed the remainder of the action on the ground that the restriction of Ms Bougnaoui's freedom to wear the Islamic headscarf was justified by her contact with customers of that company and proportionate to Micropole's aim of protecting its image and of avoiding conflict with its customers' beliefs.	The concept of a 'genuine and determining occupational requirement', within the meaning of that provision, relates to a requirement that is objectively dictated by the nature of the occupational activities concerned or of the context in which they are carried out. It cannot, however, cover subjective considerations, such as the willingness of the employer to take account of the particular wishes of the customer.	The concept of a 'genuine and determining occupational requirement', within the meaning of that provision, relates to a requirement that is objectively dictated by the nature of the occupational activities concerned or of the context in which they are carried out. It cannot, however, cover subjective considerations, such as the willingness of the employer to take account of the particular wishes of the customer.	The Court ruled that Article 41) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as meaning that the willingness of an employer to take account of the wishes of a customer no longer to have the services of that employer provided by a worker wearing an Islamic headscarf cannot be considered a genuine and determining occupational requirement within the meaning of that provision.	"Consequently, the answer to the question put by the referring court is that Article 41) of Directive 2000/78 must be interpreted as meaning that the willingness of an employer to take account of the wishes of a customer no longer to have the services of that employer provided by a worker wearing an Islamic headscarf cannot be considered a genuine and determining occupational requirement within the meaning of that provision."
France	2017	France / Court of Cassation/ECLI:FR:CCASS:2017:5002484	https://www.legifrance.gouv.fr/affichar	Religion	Court of Cassation	The internal regulations did not include any neutrality clause prohibiting the wearing of any visible political, philosophical or religious signs in the workplace. The ban on the employee wearing the Islamic headscarf during her contacts with clients resulting only from a verbal order given to an employee and targeting a specific religious sign constitutes discrimination directly based on religious convictions.	The internal regulations did not include any neutrality clause prohibiting the wearing of any visible political, philosophical or religious signs in the workplace. The ban on the employee wearing the Islamic headscarf during her contacts with clients resulting only from a verbal order given to an employee and targeting a specific religious sign constitutes discrimination directly based on religious convictions.	The internal regulations did not include any neutrality clause prohibiting the wearing of any visible political, philosophical or religious signs in the workplace. The ban on the employee wearing the Islamic headscarf during her contacts with clients resulting only from a verbal order given to an employee and targeting a specific religious sign constitutes discrimination directly based on religious convictions.	The Court of Cassation quashed and annulled the judgment of the Paris Court of Appeal which found that the dismissal was based on real and serious grounds. In the present case and the parties to the state they were in before the said judgment and referred them to the Court of Appeal of Versailles.	"Qu'en statuant ainsi, alors qu'il résultait de ses constatations qu'aucune clause de neutralité interdisant le port visible de tout signe politique, philosophique ou religieux sur le lieu de travail n'était prévue dans le règlement intérieur de l'entreprise ou dans une note de service soumises aux mêmes dispositions que le règlement intérieur en application de l'article L. 1321-5 du code du travail et que l'interdiction faite à la salariée de porter le foulard islamique dans ses contacts avec les clients résultait seulement d'un ordre oral donné à une salariée et visant un signe religieux déterminé, ce dont il résultait l'existence d'une discrimination directement fondée sur les convictions religieuses, et alors qu'il résulte de l'arrêt de la Cour de justice en réponse à la question préjudicielle posée que la volonté d'un employeur de tenir compte des souhaits d'un client ne le place pas devant les services dudit employeur assurés par une salariée portant un foulard islamique ne saurait être considérée comme une exigence professionnelle essentielle et déterminante au sens de l'article 4, § 1, de la directive du 27 novembre 2000, la cour d'appel a méconnu la portée des textes susvisés." "This, in so ruling, while it resulted from its findings that no neutrality clause prohibiting the wearing of any visible political, philosophical or religious signs in the workplace was provided for in the company's internal regulations or in a memorandum subject to the same provisions as the internal regulations pursuant to Article L. 1321-5 of the Labour Code and that the ban on the employee wearing the Islamic headscarf during her contacts with clients resulted only from a verbal order given to an employee and targeting a specific religious sign, which resulted in discrimination directly based on religious beliefs, and while it follows from the judgment of the Court of justice in response to the preliminary question referred that an employer's wish to take account of a client's wishes to no longer have the services of that employer provided by an employee wearing an Islamic headscarf cannot be regarded as an essential and determining professional requirement within the meaning of Article 4(1) of the Directive of 27 November 2000, the Court of Appeal has failed to recognise the scope of the above-mentioned text."
Germany	2017	Germany / Federal Court of Justice (Bundesgerichtshof) / AK 58/17 ECLI:DE:BGH:2017:2911718AK58.17.0	http://www.bundesgerichtshof.de/epc/3_	Migrant status, Race/ethnicity	Federal Court of justice (Bundesgerichtshof)	A lieutenant general of the German Armed Forces - after having obtained various weapons - reported himself to the authorities under a false name as a refugee from Syria and went through the asylum procedure in Germany. He was accused of planning attacks on high-ranking politicians and other - from his point of view "refugee friendly" - persons under his false Syrian identity to cast suspicion on asylum seekers out of a xenophobic motivation and was arrested in April 2017.	The Federal Supreme Court had to decide whether there was an urgent suspicion regarding the preparation of a serious act of violence that posed a threat to the state and whether the accused therefore had to remain in pre-trial detention.	The Federal Supreme Court had to decide whether there was an urgent suspicion regarding the preparation of a serious act of violence that posed a threat to the state and whether the accused therefore had to remain in pre-trial detention.	The warrant was appealed.	"Hinsichtlich dieses Tatvorwurfs besteht nach dem derzeitigen Stand der Ermittlungen kein dringender Tatverdacht. [...] Soweit der Haftbefehl vom 24. Oktober 2017 weiterhin davon ausgeht, der Beschuldigte habe den Verdacht nach der Begehung der schweren staatsgefährdenden Gewalttat auf die in Deutschland lebenden Flüchtlinge lenken wollen, ist nicht abgesehen, auf welche Weise dies habe geschehen sollen." "As far as this allegation is concerned, there is no urgent suspicion at this stage of the investigation. [...] To the extent that the arrest warrant of 24 October 2017 still assumes that the accused wanted to direct the suspicion to refugees living in Germany [...], it has not been shown how this should have been done."
Germany	2017	Germany / Administrative Court of Munich (Verwaltungsgericht München) / M.22.17.1861 ECLI:DE:VG:2017:0727.M22E17.1861.01	https://www.gesetze-bayern.de/Content/Document	Religion	Administrative Court of Munich (Verwaltungsgericht München)	The applicant, leader of the political party Alternative for Germany (AfD) in Bavaria, wanted to stop the State Office for the Protection of the Constitution (Landesamt für Verfassungsschutz) to surveil him and to take publicly about this surveillance. Previously, he had publicly expressed his sympathy for the Identitarian Movement (IB), a far-right political movement, with the following comment: "Like me, I do not succeed (even after several observations) in reading something negative out of the IB's motto: 'Homeland, Freedom, Tradition - Stop multiculturalism'. Personally, I prefer that Christian crosses continue to stand on the summits of the Bavarian mountains rather than the Islamic crescent moon be enthroned there." This had triggered the observation of the applicant by the State Office for the Protection of the Constitution, the regional branch of the domestic intelligence service.	The Office for the Protection of the Constitution was allowed to continue to surveil the applicant by using open sources but was not allowed to name him publicly because this would result in stigmatisation. There are actual indications that the Identitarian Movement is suspicious of anti-constitutional efforts.	Balancing the public interest of surveillance with the applicant's fundamental rights (right to privacy and freedom of expression).	The applicant was only partially successful. His surveillance was considered legitimate. However, the court acknowledged that the authorities should refrain from mentioning his name or quoting him in public in connection with this surveillance.	"Mit den in seiner Funktion als ... Landesvorsitzender der ... getätigten Äußerungen hat der Antragsteller die IBO nach nachdrücklich unterstützt und damit tatsächlich die Anhaltzpunkte für verfassungspolitische Bestrebungen begründet." "With the statements made in his function as chairman of the ... applicant has also emphatically supported the IBO and thus established actual indications of anti-constitutional efforts."

MS	Year	Reference details title	Reference details URL	Hate Blas	Court / Body	Key facts	Main reasoning / arguments/decisions	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
Slovakia	2017	Slovakia / Regional Court Bratislava/To68/2017	https://obran.justice.sk/infocd/inf...	Religion	Regional Court Bratislava	The case concerns a verbal attack on a Muslim woman in a public space. Perpetrator tried to pull down her hijab while shouting that "scarves do not belong in Slovakia". District Court Bratislava assessed the case as a misdemeanor rather than a criminal offence and referred the case to the District Office Bratislava (case 2F-8-2017). This resolution was appealed by the District Prosecutor's Office arguing that the act was clearly an ethnically and racially motivated hate crime. The present case concerns the decision of the Regional Court Bratislava concluding that the Prosecutor's complaint is unfounded.	Regional Court argued that the District Court sufficiently clarified why the case was referred to District Office as a misdemeanor. Criminal law should only be used in the most serious offences against societal relations, interests and values. The case cannot be assessed as a criminal act of discursively conduct as there was no physical contact between the offender and the victim. It could not be proved that the offender wanted to pull the victim's hijab down or he merely wanted to let her know not to wear it as it is not allowed in Slovakia. The Regional Court further argued it was not possible to prove the motive of ethical or racially motivated hatred as he was motivated by security concerns and occurrence of terrorist attacks and he did not find it appropriate for a veiled woman to stand on a bus stop.	The case did not bring any new clarifications or interpretations.	The Regional Court Bratislava decided that the complaint lodged against the decision of the District Court Bratislava by the District Prosecutor's Office Bratislava was unfounded. The decision is final and cannot be appealed.	"Nebolo preukázané, či skutokne (...) chcel strhnúť z hlavy ťažko ju inak fyzicky napadnúť alebo ju chcel iba upozorniť (...) keď nevhodným spôsobom, aby namočila ľuďa (...) je najmä (...) nekviaci (...) iba požadoval, aby si posúladná dala ľuďa z hlavy dole, nakoľko na Slovensku Eastky nepatria (...) nemá krajinky súz za preukázané. Že obvinení sa dopustili hrubú neúctnosti alebo výtržnosti" "Je fyzicky alebo slove napadnúť posúladní" "It was not proved (...) whether the offender really intended to pull down the hijab from her head or attack her otherwise or whether he merely wanted to warn her, albeit inappropriately, not to wear it. It was clear (...) he had not shouted (...) but merely requested the victim to take off her hijab as it does not belong in Slovakia (...) the Regional Court does not find it proved that the offender committed gross indecency or disturbance by physically or verbally attacking the victim."
Spain	2017	Spain / Social Courthouse: Palma de Mallorca / No. 31/2017	https://www.besley.es/jurisprudencia...	Religion, Gender	Social Courthouse, Palma de Mallorca	The social court of Palma de Mallorca ruled against an airline company which had sanctioned several times a female staff member for wearing a hijab, allegedly based on the minor offence of "lack of cleanliness" of the person or uniform and the serious offence of disobeying orders. She was finally fired for wearing the hijab at work. The applicant requested the court to invalidate the sanctions imposed by the company. The court declared the existence of a violation of the fundamental right to religious freedom article 16 of the Spanish Constitution) and consequently the invalidity of sanctions imposed by the company.	The use of the hijab is a manifestation of religious belief of the employee. The ban was based on a violation of the fundamental right to religious freedom recognized under the Article 16 of the Spanish Constitution. It was not comparable to the use of mere religious symbols in the workplace. Therefore the company did not provide to have in place relevant rule restricting the use of symbols religious.	Violation of the fundamental right to religious freedom recognized under the Article 16 of the Spanish Constitution. It was not comparable to the use of mere religious symbols in the workplace. Therefore the company did not provide to have in place relevant rule restricting the use of symbols religious.	It declared the existence of a violation of the fundamental right to religious freedom of Mrs Daniela (article 16 of the Spanish Constitution), and consequently the invalidity of sanctions imposed by the company. The company is requested for an immediate cessation of the action and the restoration of the plaintiff on the integrity of their right and to be replaced as at the initial moment, together with the pending payment of 440,142 euros and the payment of a compensation for the damages caused calculated in 7.892 euros.	"la existencia de vulneración del derecho fundamental a la libertad religiosa de la Sra. Daniela (artículo 16 de la Constitución), y consiguientemente la nulidad de las sanciones impuestas por la empresa" "the existence of a violation of the fundamental right to religious freedom of Mrs Daniela (article 16 of the Constitution), and consequently the invalidity of sanctions imposed by the company"
Spain	2017	Spain / The National Criminal and Administrative Court, Criminal Section 1ª (Audencia Nacional, Sala de lo Penal, Sección 1ª) / Auto 330/2017, Rec 195/2017, ES-AN-2017-793A	http://www.poderjudicial.es/botoc/boen...	Religion	The National Criminal and Administrative Court (Audencia Nacional)	National court considers lawful the prohibition of the use of the "hijab" by a woman in detention and not a breach of her right to religious freedom. The woman in prison, named as Delia was in precautionary release (transitory) deprived of her liberty (imprisonment) in the Prison Centre of Valencia by a judicial order after a trial sentence which accuses her of a terrorist offence because of his alleged association with an international jihadist organization. It was argued that the hijab hides part of the face and makes it difficult for a person to be identified. The use of the hijab by the woman imprisoned was perceived as a jihadist claim in line with other radicalization actions towards other persons imprisoned.	The appeal is based on the possible violation of the fundamental right to the religious freedom of the claimant and to what extent it could be limited for the maintenance of public order. There were references to the European Courts with jurisdiction over human rights and supranational regulations that did have ruled on the use of hijab in public, where there was no evidence that the woman in prison as in this case (TEDH No. 4383/11 SAS vs. France or STED) (Great Chamber) CAS Secure. It did also refer to the Spanish Constitutional Court as regards what it calls special restraint relations between the person in prison and the Prison Administration, STC 146/ 2002. The dissenting vote stated that the use of the hijab is a religious sign. The administrative decision to prohibit it is null and void.	The right to religious freedom. Prohibition of the use of the "hijab" to an imprisoned woman because of its relationship with the Islamic terrorism. It was considered as no breach of her right to religious freedom. It was considered as a legitimate limitation imposed by the prison authority of a religious symbol for security reasons and good order. It was concluded that the garment hides part of the face and makes it difficult for a person to be identified. It was argued that the use of the hijab by the woman imprisoned as a jihadist claim in line with other radicalization actions towards other persons imprisoned, which also acts to the detriment of the rehabilitation and reinsertion purpose of the penalty. There was a dissenting vote though.	The prohibition of the use of the hijab by the women in prison during her stay at the Prison Centre is lawful. The National Criminal and Administrative Court appreciates the appeal against the Order of the Central Prison Supervision Court that addressed to a woman's complaint regarding the use of the "hijab" in the prison, stating that in the specific case the right to religious freedom of the complainant is not breached by the prohibition of the use of such a garment issued by the prison authority.	"la limitación de su uso ... derivadas de encontrarse ingresada en Centro Penitenciario por decisión judicial ... y por razones de seguridad ... dada su dificultad de identificación y de ocultación de objetos prohibidos, y además dada la utilización que se realiza por parte de la misma de tal prenda como una reivindicación yihadista en labor de radicalización hacia otras internas de su misma religión" "the limitation of its use ... arising from being imprisoned by a judicial decision ... and by security ... given its difficulty for her identification and concealing prohibited objects, and also given the use made by it of such a garment as a jihadist claim as part of a radicalization activities towards other imprisoned women who did share the same religion"
Sweden	2017	Sweden / Labour Court / A-163-2016	http://www.rattinfolook.se/slagrumme...	Religion	Labour Court (Arbetsdomstolen)	The court found it reasonable for an employer to ban the usage of disposable sleeves at his work place, even though the decision was considered to be discriminating against women who cover themselves due to their religious belief. The judgment was based on a weighing of interest, where patient safety was considered to weigh heavier than freedom of discrimination. The plaintiff (A.N.), represented by the Equality Ombudsman, is a Muslim dentist who wears hijab and covers her arms at work. In order to cover her arms she used disposable sleeves. This was originally sanctioned by a representative of the employer's local hygiene committee. In February 2016, the CEO decided to ban the usage of disposable sleeves. The decision was made to follow the regulations of the National Board of Health and Welfare (Socialstyrelsen), which stipulate that healthcare clothes shall be short sleeved. In all different kinds of healthcare. The regulation entered into force in January - a month before the CEO introduced the local ban. The main question of the case was whether the CEO's decision in fact amounted to indirect discrimination against A.N. The case was treated in the Labour Court.	The plaintiff (NA) claimed that banning disposable sleeves is not a necessary measure to maintain patient safety, and that there is no scientific evidence that non-sterile disposable sleeves are a higher risk than the non-sterile disposable gloves that are used in the hospital. Therefore, the plaintiff argued that the ban is especially disadvantageous for Muslim women who cover their heads. The Equality Ombudsman said they were aware of the fact that the ban risks to disadvantage some persons but says that their assessment was that the ban is necessary to be able to assure patient safety.	The case clarifies that the protection of person's health and lives, (in this case patient safety) is a higher interest than other concerns. In the case in question, the health concerns and protection against diseases must be weighed against the ban of disposable sleeves and its possible effect on certain religious minorities. The ban of disposable sleeves when treating patients means that Muslim women who for religious reasons cover their arms in front of men, will be excluded from working as dentists in patient-oriented carework at the employer (Folkandvården) in question. The case clarifies that the protection of patient safety does indeed triumph over concerns, making the ban proportional.	The Court dismissed the Equality Ombudsman's (Diskrimineringsombudsmanen) action against the dentist and decided that the Ombudsman should pay the dentist's legal costs.	Folkandvården har inte gett ett beslut om förbud mot engångsarmlar när skyddshandskar ska användas diskriminera A.N., när hon var arbetstagarare hos Folkandvården, eftersom beslutet haft ett berättigat syfte - att bibehålla patientsäkerheten - och Folkandvården visat att förbudet mot engångsarmlar när skyddshandskar ska användas varit lämpligt och nödvändigt för att uppnå syftet med beslutet. Folkandvården är därför inte skyldig att betala A.N. diskrimineringsersättning. DO's talan ska alltså avslås. (In deciding on a ban on disposable sleeves when protective gloves are to be used, Folkandvården has not discriminated against A.N. when she was an employee of Folkandvården, because the decision had a legitimate purpose - to maintain patient safety. Folkandvården has shown that the ban against disposable sleeves when protective gloves should be used is appropriate and necessary in order to achieve the purpose of the decision. Thus, Folkandvården is not obliged to pay A.N. discrimination compensation. The action of the Equality Ombudsman must therefore be rejected.)
United Kingdom	2017	United Kingdom / R v Peham Case no. U20170377/20170114 ...	http://www.thelawpages.com/court-case...	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	
Austria	2018	Austria / Higher Regional Court Vienna / 18 Bs 339/18m		Religion, Migrant status	Vienna Court of Appeal (Oberlandesgericht Wien)	A women posted several statements her two Facebook profiles over a two-month period. She called refugees "human garbage" as well "deranged, criminal, escaped murderers". She called Muslims "human shit" and commented that "these children are programmed to be from early age on. To kill. Muslims can do nothing else." In response to the birth of the "Venice-New Year's Baby 2018" she posted: "We do not want newborn children! [...] Keep yourself the fuck Islam with its parasitic minus-humans."	not publicly available	not publicly available	The Higher Regional Court found that this posting amounts to an incitement to hatred according to § 283 of the Austrian Criminal Code.	not publicly available
Austria	2018	Austria / Supreme Court / 150s33/18v ECLI:AUT:OGH0002-2018-RS0132087	https://www.ris.bka.gv.at/Dokument...	Religion, Migrant status	Supreme Court (Oberster Gerichtshof)	The case concerns online incitement to hatred and violence. From March to July 2016, H. F. posted several statements against persons seeking international protection and persons who follow the Islamic faith on Facebook. These comments included prejudice, slander and verbal abuse and were visible for at least 1.094 Facebook users. The public prosecutor's office discontinued the investigation proceedings against him, because the statements would not amount to incitement to hatred according to the public prosecutor's office. The General procurator's office filed a nullity appeal for observance of the law against the public prosecutor's decision.	The Supreme Court found that the statements posted on Facebook do amount to incitement to hatred against refugees and Muslims. The defendant described the groups in question generally, for instance, "brutal invaders" who "want to finance their life at our expense, hate us and impose their medieval ways of life" and do not have a "feeling for normal human values", so that they have to be met with "far more brutal force". These expressions aim to cause negative emotions based on a bipolar pattern of interpretation ("we" - "you"). This is further underlined by the emotionalizing wording ("2-fronts war", "enslavement") and "typical" (distinctive use of exclamation marks and capitalization).	Statements such as the ones posted by the defendant on Facebook amount to incitement to hatred pursuant to § 283 Criminal Code.	The Supreme Court found that the public prosecutor's decision to discontinue the investigation proceedings had violated the law. This finding serves mainly the deterrent and preventive application of the law. The decision of the Supreme Court has no effect on the defendant.	"Die [...] rechtliche Beurteilung, die Äußerungen stellten wieder ein Auffordern zu Gewalt nach ein Aufzehrung zu Hass dar (§ 283 Abs. 1 Z. 1 StGB), erweist sich jedoch als verfehlt."
Belgium	2018	Belgium / Court of First Instance of Ghent / Roll number 18G01567 - System number 18RG0998	https://www.unia.be/files/Documenten/9...	Race/Ethnicity, Nationality, Religion	Court of first instance East-Flanders department Ghent criminal matters (Rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent strafzaken)	The facts of the case concern a wide range of inappropriate and racist remarks made on social media following the attacks in Istanbul (Turkey) on 1 January 2017. K.A. from Houthalen-Hechieren was killed in those attacks. The defendant, a Belgian national, repeatedly posted messages on the Internet, including on Facebook, targeting Muslims with a migrant background and replied to messages and videos posted by others from 18/09/2014 to 02/06/2017 included. The defendant denies the facts and claims his Facebook posts was hacked. He argues that the use of the word macaca ("mukaka") should not necessarily be interpreted as racist because it concerns a type of ape. The case was brought by the Prosecutor's Office in Gent, UNIA, and the parents, the sister and the brother of K.A. joined the case as civil parties.	The Court finds the defendant's arguments completely implausible, considering the inconsistencies in the defendant's statements and the complete lack of evidence of hacking. The Court argues that the defendant can be no doubt about the fact that he had posted the will to incite hatred or violence, "considering that he had not only posted posts on other people's Facebook page, but also spread racist and hateful messages through his own Facebook profile.	The Court gave special consideration to the defendant's use of Facebook, the most well known and used online social network site, to spread racist messages, not only is doing so from behind a computer considered cowardly and very reprehensible behaviour, the defendant denied his online statements when confronted with them in the real world. According to the Court, this demonstrated the defendant's true attitude and raises questions regarding his insight in his errors and the associated possibility of recidivism.	The Court found the defendant guilty and imposed sanctions with a preventive and repressive objective. The defendant was ordered to pay the symbolic amount of 1 euro of compensation to the plaintiffs and to UNIA as well as their their litigation costs (180 euro each). Furthermore, the defendant received 6 months in prison and a 4.000 euro fine for 1 month and 15 days in prison. He was also ordered to pay 200 euro to the Fund to help victims of intentional acts of violence and occasional rescuers, 20 euro to the Budget fund for legal second-line assistance, 53,58 euro for the management costs of criminal cases, and litigation costs (28,46 euro) of the office of public prosecutor.	"De beklagde heeft duidelijk een gebrek aan respect voor anderen waarbij hij volger in racistisch taalgebruik niet schuwt. Het gedrag van beklagde is totaal onovertuigend en draagt bij tot een polarisering in de huidige samenleving. De samenleving wordt steeds geconfronteerd met onovertuigend en extreemste acties aanzet tot haat en het gebruik van geweld. (...) Het is zeer verontwaardigend om te lezen hoeveel mensen, al dan niet anonim, net als beklagde haatgedragde en racistische boodschappen verspreiden via sociale media."
Belgium	2018	Belgium / Court of First Instance of Brussels / Judgment number 2018/6234 - Roll number 18F033246 - System number 18R3630	https://www.unia.be/files/Documenten/9...	Religion, Race/Ethnicity	French-speaking Court of First Instance of Brussels, 61st penal chamber (Tribunal de première instance francophone de Bruxelles, 61e chambre correctionnelle)	The defendant does not understand the complaint. He merely wanted his treatment and addressed the pharmacist in a nice way. The defendant told the police and repeated at the court hearing that he did nothing wrong. The only thing he is sorry for is that he may have spoken too loudly because he was feeling unwell. At the time, he was in distress and feeling very bad due to the chemotherapy he was receiving, yet the pharmacist did not act as required by a pharmacist in the medical profession. He has no problem with her wearing a veil, as long as she can be no racist or hatred. The Court does not follow this reasoning. It would be surprising that the pharmacist would be unable to perceive that a customer is suffering and go through the trouble to go to the police 5 days later. The pharmacist's manager intervened because of the noise and tone and offensive and discriminating remarks made by the defendant.	The defendant argued that it could not be proven that he said the things he is accused of saying by the complainant, because the pharmacist's complainant's manager did not repeat the words when she was heard in the case. The Court determined that this is not necessary, because the manager interrupted her own work to intervene, because she heard the man raise his voice and tone. It is not surprising that the manager does not remember the exact statements made by the defendant, because the facts took place in August 2016 and the manager was heard in the case only in December 2016. While not surprising that the manager did not remember the exact wording, the manager did remember that the defendant's remarks were offensive and discriminating. The Court also argued that not feeling well, does not justify the statements made to the pharmacist.	The defendant is found guilty, in determining the punishment to impose, the Court took into account the defendant's unacceptable behaviour, his total absence of regrets and his attitude during the court procedures, which demonstrate that he still minimizes the facts and piles on his personal case, as well as his lack of a criminal record. The Court hoped that the punishment will be of such a nature to make the defendant truly aware of the fact that his remarks about the victim are not tolerable in any case. The Court condemned the defendant to a fine of 900 euro to be replaced by a subsidiary imprisonment of 15 days if not paid). Additionally, the defendant was ordered to pay 200 euro to the Special Fund to help victims of intentional acts of violence and occasional rescuers, a compensation of 53,58 euro, 20,00 euro to the Budget Fund for second-line legal aid, and 30,87 euro for the expense of public action.	"De plus, la responsable de la pharmacie, B. C., si elle ne réplète pas les propos tenus par le prévenu, indique néanmoins qu'elle a abandonné la tâche qu'elle effectuait pour aller voir ce qu'il se passait car elle avait entendu la voix d'un homme et que le ton montait. Elle signale que les propos étaient injurieux et discriminants. D ne fait aucun doute que l' ne s'était rien passé, elle aurait poursuivi ce qu'elle faisait et il serait très surprenant qu'elle aurait embrayé dans le sens de la plaignante. Elle aurait tout simplement déclaré qu'elle travaillait pas été témoin des faits dénoncés par la plaignante. Tel n'est pas le cas en l'espèce, bien au contraire. Il faut aussi remarquer qu'elle a été entendue en décembre 2016 alors que les faits se sont déroulés en août 2016 de sorte qu'il ne peut lui être reproché de ne pas se souvenir mot à mot des termes utilisés par le prévenu."	
Bulgaria	2018	Bulgaria / Commission for Protection against Discrimination / Decision No 170 of 23 April 2018 on case file No 38/2016	http://cat-nondiscrimination.com/fayout...	Religion	Commission for Protection against Discrimination (Комисия за защита от дискриминация)	The case concerns harassment on the grounds of religion. The defendant (K.F.) was found guilty of harassment on the grounds of religion in Europe. The Commission for Protection against Discrimination concluded that, irrespective of its original purpose, the project had resulted in humiliating the dignity of the persons identifying themselves as Muslims and could provoke negative attitudes and feelings, ignorance and hatred against such people.	The key issue clarified by the case is the interpretation of harassment of the grounds of religion. According to the Commission for Protection against Discrimination the purpose of the act had no mitigating effect on the grounds of a difference in ethnic affiliation and purpose to inform the public about a terrorist organisation, the publication contributed to the construction of a stereotype against persons of Islamic religion.	The Commission for Protection against Discrimination declared that the publication was an act of harassment on the grounds of religion and ordered the defendant to refrain from committing similar acts in the future.	"Твърдението на отговорната страна е, че щетила на статия е не да се засегне правен кръг лица, а да се представят информация относно терористичната организация Исламска държава, която инфантилно в редицте на итернет безмислено се представятели, които организират терористични актове в съществуване на ЕС. Службата за защита от дискриминация не може си не омаловажава нукручението на ЗДДискр., тъй като за да възрази собственото си отношение по проблема, авторът на публикацията е използвал изразен пресметан, като употребил погрешно, както дразнителни и неуважително враждебност спрямо лицата, изповядващи посочената религия, като им дава оценка за неща вярно. Импонването израз "орди ори на аслем", "терористи", "нашествие" и е а постъпка с целеносен и осъществяване, за да създаде обидна среда по отношение на всемо лице идентифициращо собственото вероизповядание и да заклеени като "дискриминация".	
Croatia	2018	Croatia / Magistrates Court in Rijeka / no. 36. Pj / 1959/16		Race/Ethnicity, Religion	Magistrates Court in Rijeka	The case is about a misdemeanor offence. The defendant was indicted for harassing his neighbour and neighbour's wife while intoxicated, yelling profanities like "my, your Muslim mother", among others.	The key issue in this case was determining whether the defendant intended to create a hostile, degrading or offensive environment on the grounds of a difference in ethnic affiliation and his behaviour.	The perpetrator was found guilty for a misdemeanor, breaking Article 25 of the Anti-Discrimination Act of Croatia, and was charged a fine in the amount of 5.000 kn. He was also found guilty of breaking Article 13 of the Offences against Public Order and Page Act.	N/A	

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Croatia	2018	Croatia / Municipal Labour Court in Zagreb / no. 6. Pr-636/17-188		Nationality, Race/Ethnicity, Religion	Municipal Labour Court in Zagreb	The case is concerning harassment and discrimination in the workplace. During 2011, at his workplace, the victim was received threatening messages such as "Smoking Arab, you are taking away food meant for our children, we will exterminate you all", messages with a drawn knife and noose with the message under writing "Choose" and other disturbing content. The case revolved around whether the employer had ensured sufficient measures of protecting and preventing harassment of their workers.	The Court determined that the employer was at fault for not ensuring sufficient measures of protecting his workers from harassment in the workplace, as he knew about the threatening messages but only notified the police two weeks after the worker informed him about the third threatening message he received.	The Court determined that the employer was at fault for not ensuring sufficient measures of protecting his workers from harassment in the workplace.	The Court found that the worker had been harassed and discriminated against in the workplace based on his nationality/ethnic origin and religion, and was awarded reparations in the amount of 50,000 kn with interest, and also the amount of salary difference. The Court based that amount on the fact that the harassment provoked PTSD and depression in the victim, which in turn caused a deterioration of his ability to live by 15%.	N/A
Denmark	2018	Denmark / the Eastern High Court/ available in the Journal of Criminal Law (Tidskrift for Kriminologi), TK 2018.383 0 (appeal decision)		Religion	National higher court (Østre Landsret)	The defendant wrote a comment on a politician's open Facebook page about a Muslim woman who is known to the public. The defendant wrote: "She should be deported or shot for treason as the Muslim she is ... Ewit"	The lower court found the defendant guilty of violating § 266 b, section 1 in the criminal code. The higher court found the defendant not guilty. The higher court found that the defendant was not guilty because it was expressed in a thread concerning one particular person. The higher court therefore found that the statement was levelled at one specific person and not Muslims as a group.	The court addressed the question of whether statements against individuals can be regarded as a threat, scorn or degradation of a group of people as well. The court did not find that the statement contained a threat, scorn or degradation of Muslims as a group.	Both the lower and the higher court acquitted the defendant.	"Hun sku udvises eller skydes for landsforrædderi, som den muslim hun er..." "She should be deported or shot for treason as the Muslim she is ... Ewit"
France	2018	France / Court of Cassation/ECLL:FR:CCASS-2018:CR0309	http://www.legifrance.gouv.fr/ia/ficheur...	Religion, Race/Ethnicity	Court of Cassation	Mr. Y. was summoned to appear before the criminal court on the charge of provocation of racial discrimination against the Muslim community. This was following statements published on a website, which he is the director of publication for, under the title, "What if Islam were the cult of sexual and moral perversion?". The judges of first instance convicted him on this count. The Court of Appeal upheld their decision.	To establish the offence of incitement to racial discrimination against the Muslim community, the judgment states that this offence is not contrary to the right to freedom of expression as recognised by Article 10 of the European Convention on Human Rights, which sets limits at the end of its second paragraph and that it is not adequate to qualify the disputed statements as "lampoonist" to assure impunity, that the judges note that the incriminating text contained a generalised stigmatisation of Muslims, and not just a few, and can not only be considered as criticism of the Muslim religion, since it attributes to Muslims various deviances leading them to perverse practices and criminal behaviour, contrary to human dignity, and likely to provoke violent rejection towards them and to encourage the most heinous reactions against them.	The widespread stigmatisation of Muslims cannot be considered only as criticism of the Muslim religion and constitutes the offence of incitement to racial discrimination.	The Court of Cassation upheld the judgment of the Court of Appeal. Mr Y was ordered to pay costs to the civil party.	"Attendu que, pour dire établi le délit de provocation à la discrimination raciale à l'égard de la communauté musulmane, l'arrêt énonce que cette incrimination n'est pas contraire au droit à la liberté d'expression reconnu par l'article 10 de la Convention européenne des droits de l'homme qui prévoit des limites au terme de son second paragraphe et qu'il ne suffit pas de qualifier de "lampoonistes" les propos litigieux pour s'assurer l'impunité, que les juges relèvent que les propos litigieux constituent une stigmatisation généralisée des musulmans, et non de certains d'entre eux, et ne peut être analysée comme la seule critique de la religion musulmane, dès lors qu'il impute aux musulmans diverses déviations conduisant à des pratiques perverses et des comportements criminels, contraires à la dignité humaine, de nature à provoquer à leur égard un rejet violent et à favoriser à leur encontre les réactions les plus haineuses." "To establish the offence of incitement to racial discrimination against the Muslim community, the judgment states that this offence is not contrary to the right to freedom of expression as recognised by Article 10 of the European Convention on Human Rights, which sets limits at the end of its second paragraph and that it is not adequate to qualify the disputed statements as "lampoonist" to assure impunity, that the judges note that the incriminating text constitutes a generalised stigmatisation of Muslims, and not just a few, and can not only be considered as criticism of the Muslim religion, since it attributes to Muslims various deviances leading them to perverse practices and criminal behaviour, contrary to human dignity, and likely to provoke violent rejection towards them and to encourage the most heinous reactions against them."
France	2018	France / Court of Cassation/ECLL:FR:CCASS-2018:CR03270	http://www.legifrance.gouv.fr/ia/ficheur...	Religion	Court of Cassation	Mr B., a journalist and essayist, was summoned to appear before the criminal court for having made anti-Muslim remarks to Mr Stefano A. an Italian journalist, during an interview (in French, translated into Italian) in Paris on 30 October 2014 with the Italian daily newspaper Corriere Della Sera, published sites in the country and broadcast on the internet. He said: "Muslims have their civil code, it's the Koran, they live among themselves in the peripheries, the French have been forced to leave. I think we are heading towards chaos, this situation of a people among the people, Muslims among the French people, will lead us to chaos and civil war." Millions of people live here in France, and do not want to live in the French way ("Les musulmans ont leur code civil, c'est le Coran. Ils vivent entre eux, dans les périphéries. Les Français ont été obligés de s'en aller." "Je pense que nous nous dirigeons vers le chaos. Cette situation d'un peuple dans le peuple, des musulmans dans le peuple français, nous conduira au chaos à la guerre civile. Des millions de personnes vivent ici, en France, et ne veulent pas vivre, à la française"). The first instance judges dismissed the defendant's plea of invalidity and found him guilty. The Court of Appeal upheld the decision.	The Court of Appeal did not justify its decision. It found that the defendant had contradicted or whether he knew that the disputed statements were published in the Italian daily newspaper were also intended to be published in France and that the defendant's website, accessible via the internet.	The Court of Cassation stated that in order to incriminate a person for incitement to racial discrimination, the court should examine their personal participation in the offence: did they act with the intention to publish their words in France?	The Court of Cassation overturned and annulled the judgment of the Paris Court of Appeal of 17 November 2016, and referred the parties to the Court of Appeal composed of different judges.	"Mais attendu qu'en se déterminant par ces seuls motifs, sans mieux caractériser la participation personnelle de M. Y., qui a contesté dans ses conclusions, au fait de publication sur le territoire national du quotidien étranger et de sa mise en ligne sur le site de ce quotidien et alors qu'il appartenait de rechercher, dans les termes du droit commun, en ayant le moyen de participation du prévenu aux faits poursuivis, s'il avait contribué ou s'il savait que les propos litigieux donnés au quotidien italien, étaient susceptibles d'être publiés en France et diffusés sur le site du journal, accessible par le réseau internet, le court d'appel n'a pas justifié sa décision." "Whereas, by determining on these reasons alone, without better characterizing the personal participation of the accused, the court of appeal has not justified its decision." "The Public Defender of Rights has taken note of the fact that the judgment of the Paris Court of Appeal of 17 November 2016, and referred the parties to the Court of Appeal composed of different judges."
France	2018	France / Public Defender of Rights/2018-103	https://uridisque.defenseurdesdroits.fr...	Religion	Public Defender of Rights	A woman was denied access to a swimming pool managed by a private company as part of a public service contract because she was wearing the burkini. The internal regulations applicable at the time of the events did not provide for anything with regard to burkinis and were subsequently amended to prohibit diving suits except in the context of associations. The establishment concerned justifies the refusal of the burkini on health and safety grounds. However, it admits that associations may authorise the wearing of a neoprene diving suit in its establishment since it is not responsible for health and safety.	The Public Defender of Rights recalls that, in accordance with the rules on the burden of proof, the establishment concerned must provide proof, in particular by means of scientific data and/or studies, that its refusal is based on non-discriminatory and non-compensatory elements. The Public Defender of Rights considers that such evidence is not presented in this case and concludes that there is unlawful discrimination.	Discrimination based on religious clothes	The Public Defender of Rights has taken note of the fact that the internal regulations of company Y have been amended and that they now restrict the obligation of neutrality applicable to only staff who are in contact with customers. He noted the willingness of Company Y to settle the case amicably with Mrs X and to compensate her in full.	"Le Défenseur des droits en conclut que le refus d'accès opposé à Madame X à la piscine Z du fait qu'elle portait un burkini et l'adoption d'un règlement intérieur interdisant son port caractérisent des discriminations fondées sur la religion et le genre, au sens des articles 8 et 9 de la Convention européenne des droits de l'homme combinés avec son article 14, et de l'article 23 de la loi n° 2008-496 du 27 mai 2008." "The Public Defender of Rights concludes that the refusal of Ms. X's access to the 'Z' pool because she was wearing a burkini and the adoption of internal regulations prohibiting it being worn characterize discrimination based on religion and gender, within the meaning of Articles 8 and 9 of the European Convention on Human Rights combined with Article 14 thereof, and Article 23 of Law No. 2008-496 of 27 May 2008."
France	2018	France / Public Defender of Rights/018-289	https://uridisque.defenseurdesdroits.fr...	Religion	Public Defender of Rights	The fact that Ms X's recruitment is subject to the condition that she remove her headscarf for a job requiring no contact with customers, and the requirement of neutrality imposed on staff without contact with customers within company Y by the applicable internal regulations, characterise discrimination based on religious convictions prohibited by Articles 8, 9 and 14 of the European Convention on Human Rights, Article 22 of the law of 27 May 2008 transposing Article 3 of Directive 2000/78 and Articles L.1321-2-1, L.1321-3 et L.1321-1 of the Labour Code.	The Public Defender of Rights received a complaint from a Muslim woman who had been offered a job, which did not involve customer contact, upon the condition that she remove her headscarf. The internal regulations then in force in the company provided for a neutrality clause applicable to all employees of the company, including those without contact with customers, which therefore prohibited them from wearing religious symbols. The claimant had relinquished the job in question.	The requirement of neutrality imposed on staff without contact with customers characterises discrimination based on religious beliefs	The Public Defender of Rights has taken note of the fact that the internal regulations of company Y have been amended and that they now restrict the obligation of neutrality applicable to only staff who are in contact with customers. He noted the willingness of Company Y to settle the case amicably with Mrs X and to compensate her in full.	"La Société Y ne conteste pas l'existence de ce règlement intérieur de sorte que si Madame X avait donné suite à la promesse d'embauche faite par la société Y, elle aurait, de fait, été contrainte de retirer son foulard en application du règlement intérieur. L'ensemble des faits laissent présumer l'existence d'une discrimination religieuse. En application des règles d'aménagement de la charge de la preuve posées par l'article L.1134-1 du Code de travail, il appartient alors à l'employeur de démontrer que cette situation est étrangère à toute discrimination. Or, les éléments du dossier et ses observations de la société Y ne permettent pas de faire cette démonstration. La subordination de l'embauche effective de Madame X au fait qu'elle retire son foulard dans un poste n'exigeant aucun contact avec la clientèle ainsi que l'exigence de neutralité posée au personnel sans contact avec la clientèle au sein de la société Y, posée par le règlement intérieur applicable avant juillet 2017 caractérisent une discrimination fondée sur ses convictions religieuses prohibée par les articles 8, 9 et 14 de la Convention européenne des droits de l'homme, l'article 22 de la loi du 27 mai 2008 transposant l'article 3 de la directive 2000/78 ainsi que les articles L.1321-2-1, L.1321-3 et L.1321-1 du Code de travail." "Company Y does not dispute the existence of these internal regulations, meaning that if Ms. X had taken up the promise of employment made by company Y, she would, in fact, have been forced to remove her headscarf pursuant to the internal regulations. All the facts suggest that there is religious discrimination. In accordance with the rules on the burden of proof laid down by Article L. 1134-1 of the Labour Code, it is then up to the employer to demonstrate that this situation is unrelated to any discrimination. However, the elements of the case and the observations of company Y do not allow for this to be demonstrated. The condition that Ms X remove her headscarf in order to be recruited to a position requiring no contact with customers and the requirement of neutrality imposed on staff without contact with customers within company Y by the internal rules applicable before July 2017 characterise discrimination based on religious convictions prohibited by Articles 8, 9 and 14 of the European Convention on Human Rights, Article 22 of the law of 27 May 2008 transposing Article 3 of Directive 2000/78 and Articles L.1321-2-1, L.1321-3 and L.1321-1 of the Labour Code."
France	2018	France / Public Defender of Rights/2018-287	https://uridisque.defenseurdesdroits.fr...	Religion	Public Defender of Rights	The rule of secularism and neutrality applicable to vocational training is not applicable to the vocational training of trainees undertaking the training takes place stipulate that "nursery assistant" trainees undertake to respect the duty of reserve and discretion allowing the group to express itself freely and exercise their rights to freedom of expression and thought with respect for others and in a spirit of tolerance in accordance with the principle of secularism, pluralism and neutrality."	The rule of secularism and neutrality applicable to vocational training is not applicable to the vocational training of trainees undertaking the training takes place stipulate that "nursery assistant" trainees undertake to respect the duty of reserve and discretion allowing the group to express itself freely and exercise their rights to freedom of expression and thought with respect for others and in a spirit of tolerance in accordance with the principle of secularism, pluralism and neutrality."	The rule of secularism and neutrality applicable to vocational training characterizes religious discrimination	The Public Defender of Rights has taken note of the fact that the internal regulations of company Y have been amended and that they now restrict the obligation of neutrality applicable to only staff who are in contact with customers. He noted the willingness of Company Y to settle the case amicably with Mrs X and to compensate her in full.	"Le législateur français a prévu que le port de signes ou tenues par lesquels les élèves manifestent ostensiblement une appartenance religieuse était interdit aux élèves de l'enseignement des établissements publics d'enseignement primaire et secondaire (article L.141-5-1 du Code de l'éducation, issu de la loi n°2004-228 du 25 mars 2004). Depuis l'entrée en vigueur de la loi n° 2016-1088 du 8 août 2016 (dite loi El Khomri), l'article L.1321-2-1 du Code de travail dispose que le règlement intérieur peut contenir des dispositions inscrivant le principe de neutralité et restreignant la manifestation des convictions des salariés si ces restrictions sont justifiées par l'exercice d'autres libertés et droits fondamentaux ou par les nécessités du bon fonctionnement de l'entreprise et si elles sont proportionnées au but recherché." "Toutefois, cet article ne vise que les salariés du secteur privé et non des stagiaires d'une association privée suivant une formation professionnelle. Ainsi, ni l'article L.141-5-1 du Code de l'éducation ni l'article L.1321-2-1 du Code de travail par lesquels le législateur a prévu d'interdire les signes religieux ostensibles d'une part, aux élèves de l'enseignement primaire et secondaire et à permis, d'autre part, aux employeurs d'imposer une neutralité dans certaines conditions à leurs salariés, ne semblent applicables à une association privée qui dispense des stagiaires professionnels à des adultes stagiaires telle que L'Ecole Y. En l'espèce, le règlement intérieur de L'Ecole Y évoque « le devoir de réserve et de discrétion permettant la libre expression du groupe (...) dans un esprit de tolérance selon le principe de laïcité, de pluralisme et de neutralité » (art. 10) n'exige pas les obligations tirées de la laïcité et de la neutralité auxquelles les stagiaires seraient soumis. Il ne leur interdit pas de manifester explicitement le port de certains signes notamment religieux. Les effets de l'exigence de neutralité prévue par le règlement intérieur du groupement scolaire pour la formation des assistants maternels de la métropole de Z ne sont pas clairement énoncés. Compte tenu de ce qui précède, la règle de laïcité et neutralité applicable aux stagiaires suivant une formation professionnelle d'assistante maternelle prévues par l'article 10 du règlement intérieur du groupement Y, contraignant Madame X, musulmane, à retirer son foulard, caractérise une discrimination religieuse dans l'accès à la formation professionnelle et aux biens et services aux termes des articles 8 et 9 combinés à l'article 14 de la Convention européenne des droits de l'homme, des articles 225-1 et 225-2 du Code pénal ainsi que des articles 22-2 et 23 de la loi n° 2008-496 du 27 mai 2008 modifiée portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations. Since the entry into force of Law No. 2016-1088 of 8 August 2016 (known as the El Khomri law), Article L.1321-2-1 of the Labour Code provides that "the internal regulations may contain provisions enshrining the principle of neutrality and restricting the manifestation of employees' convictions if these restrictions are justified by the exercise of other fundamental freedoms and rights or by the needs of the company's proper functioning and if they are in proportion to the desired purpose." "However, this article only applies to employees in the private sector and not to trainees of a private association undergoing vocational training. Thus, neither Article L.141-5-1 of the Education Code nor Article L.1321-2-1 of the Labour Code, by which the legislator has provided for the banning of conspicuous religious symbols on the one hand, for primary and secondary school pupils, and has allowed employers to impose neutrality under certain conditions on their employees, on the other hand, seem applicable to a private association that provides vocational training to adult trainees such as the Y School. In the present case, the internal regulations of the Y School, which refer to the duty of reserve and discretion allowing the group to express itself freely (...) in a spirit of tolerance in accordance with the principle of secularism, pluralism and neutrality (article 10), do not explain the obligations derived from secularism and neutrality to which trainees should submit. It does not expressly prohibit them from wearing certain signs, particularly religious ones. The effects of the requirement of neutrality provided for in the internal regulations of the solidarity group for the training of nursery assistants (groupement scolaire) pour la formation des assistants maternels) in the metropolitan area of Z are not clearly stated. In view of the above, the rule of secularism and neutrality applicable to trainees undergoing vocational training as nursery assistants provided for in Article 10 of the rules of procedure of group Y, forcing Ms X, a Muslim, to remove her headscarf, constitutes religious discrimination in access to vocational training and goods and services under."
Germany	2018	Germany / Federal Constitutional Court (Bundesverfassungsgericht) / 1 BvK 31/17 ECLL:DE:BVerfG:2018:k20180420.1bv003117	https://www.rechtsprechung-im-internet...	Religion	Federal Constitutional Court (Bundesverfassungsgericht)	The complainant was politically active in the political party Alternative for Germany (AfD) and an internet blog in which he expressed his criticism of Islam. In June 2016, a preliminary investigation was initiated against him on suspicion of incitement to hatred and the district court ordered a search of his rooms. He was suspected of having published the following comment, referring to a Muslim and his veiled wife: "Some time ago, a Mosi also crossed my path with his wrapped cattle at the railway station. I told him directly that he should disappear to Arabia." He disparaged Muslim women wearing hijabs in other blogposts. But, the aim of the search was to find evidence that would prove that the complainant was the author of the blog.	The initial suspicion of incitement to hatred was justified. This assessment did not violate the complainant's fundamental right to freedom of expression. Considering the penalty for the offence of incitement to hatred, search and the violation of fundamental rights were not disproportionate to the seriousness of the offence.	Infringement of the fundamental rights of freedom of expression by an investigation into incitement to hatred and the inaccessibility of the home by a subsequent search order.	The Federal Constitutional Court rejected the constitutional complaint.	"Die Behauptung eines Anfangsverdachts der Volksverhetzung gem § 130 Abs 1 Nr 2 StGB durch die Veröffentlichung verschiedener Frauen als "verpackte Vieh" sowie der vorgeschlagenen Bezeichnung von Kopftuchträgerinnen als "far" oder "er" ist verfassungsgemäß vertretbar. Die entsprechende Werbung verletzt den Beschwerdeführer nicht in seinem Grundrecht auf Meinungsfreiheit (Art 5 Abs 1 S 1 GG)." "The affirmation of an initial suspicion of incitement of hatred pursuant to § 130 (1) no. 2 of the Criminal Code by naming veiled women "wrapped cattle" as well as the proposed designation of women wearing hijabs as "fr" or "er" is constitutionally justifiable. The corresponding assessment does not violate the complainant's fundamental right to freedom of opinion (Article (1) sentence 1 of the Basic Law)."
Germany	2018	Germany / District Court of Traunstein (Amtsgericht Traunstein) / Kls 450 J 1215/18 ECLL:DE:LGTRAU:2018:1130.Kls450J1215.18.0A	https://www.presse-bayern.de/Content_D...	Migrant status	District Court of Traunstein (Amtsgericht Traunstein)	Between February and April 2018, the two accused men threw two homemade incendiary devices and an explosive device at an asylum seeker named Y. Nusudri. They also painted a swastika on the building. Nobody was injured but they knew that the building was inhabited by many people. Nazi and Hitler pictures with texts trivializing the Nazi era had also been found on the computer of one of the defendants.	The court notes that the analysis of the responsibility of the accused must not only consider the words he placed himself but also the context in which they are placed, including the words by others. Moreover, the court notes that freedom of expression has limitations. Whilst comment may jump the line of mediocrity, it may not jump the limits established by law. That said, in this case, the court notes the comments as an expression of the accused's views and not one intended to or likely to stir up racial hatred.	Both defendants made confessions, had expressed regret and an alcohol-related disturbance was involved in all offences. Therefore, the court had to take all circumstances into consideration when sentencing. The racist and xenophobic motivation of the crime was considered as an aggravating circumstance.	The Chamber sentenced the two defendants to three years and nine months imprisonment each.	"Zudem ist zu sehen, dass den Taten eine rassistische, fremdenfeindliche und menschenverachtende Gesinnung (§ 46 Abs. 2 StGB) zugrunde lag, eine Gesinnung, die bereits seit zumindest 2013 bestand, sich nach dem Kontakt zu Z, im Jahr 2017 deutlich zuspitzte und von der er sich erst während der Mithatensung schrittweise zu distanzieren begonnen hat." "In addition, it can be seen that the acts were based on a racist, xenophobic and inhuman attitude (§ 46 (2) of the Criminal Code), an attitude which had already existed since at least 2013, increased significantly after contact with Z in 2017 and from which he only gradually began to distance himself during imprisonment."
Malta	2018	Malta / Court of Magistrates / Pulizja v Brandon Bonello	https://ecourts.gov.mt/online-services...	Religion, Race/Ethnicity, Migrant status	Court of Magistrates (Criminal Jurisdiction)	Case deals with accusations of incitement to racial hatred and misuse of communication technology by the accused by posting in a facebook group statements that were considered offensive. The complainant was brought by a Muslim Maltese citizen who considered herself aggrieved by the post. Speaking about the complainant, the accused posted: "Tmur thfu fuq kemm andis... awerheki edni gajlions... aha religion whed biss... huma guests idu jimu al ligijiet tagha... ma jgobom?? Fuck off back to your country!" (She can go to her parents, here we are in our own country... we have only one religion... they are guests and should follow our law... they don't like it?)	The key issue in this case revolved around whether the court considered the intention of the accused as being that of stirring up racial hatred. The court determined this not to be the case.	The key issue in this case revolved around whether the court considered the intention of the accused as being that of stirring up racial hatred. The court determined this not to be the case.	Not guilty.	"Bill din il-Qorti jidherhli li l-analiżi dwar ir-responsabilità u meno tal-imputat ma trid tikkoncentra biss fuq il-kliem publikati mill-imputat, b'hekk trid tikkoncentra fuq il-kliem u l-azzjoni ta' s-sarrazz, b'hekk trid tikkoncentra fuq idur li dak il kum qed jigi mikub minni u minn haddiehor; mhux li-hekk li-kumment kun sar i cirkostanzi oħra li jgħur jgħur mingħajr." "In the view of this court, the analysis of the responsibility or otherwise of the accused can't centrelly on the words published by the accused, but also must consider the context of what is being written by him and others, as well as the place where the comment is made and other surrounding circumstances."

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	
Serbia	2018	Serbia / Equality body/Commissioner for Protection of Equality/07-00-610/2018-02		Race/Ethnicity, Religion	Commissioner for Protection of Equality (Povernik za zaštitu ravnopravnosti)	Ms. Vjerica Radeta, a Vice President of the National Assembly, posted a tweet regarding the death of the president and founder of the association Mothers of the Association of Businesswomen from Srebrenica passed away. I am wondering who is gonna bury her, her sons or her husband? An NGO Belgrade Centre for Human Rights filed a complaint against Ms. Radeta before the Commissioner for Protection of Equality. The complainant argued that the given tweet undermined Ms. Mehmedović's dignity on the basis of her personal characteristics, Bosniak ethnicity and membership in the "Mothers of Srebrenica association".	The Commissioner for Protection of Equality was informed by the Higher Public Prosecutor in Belgrade about the ongoing criminal investigation in this case. The Commissioner concluded that there is no legal basis for a differential treatment of refugees wishing to conclude a postpaid service contract with a telecommunications company. The only basis for this differential treatment is a subjective eligibility criterion that is based on one's being a refugee and that automatically makes this person an ineligible user.	Not applicable since the complaint was dismissed.	The Commissioner stated that it cannot act upon the complaint due to the ongoing criminal procedure. It also asserted that the complainant will be informed about any developments in this case, when the Commissioner receives additional information from other acting authorities.	(pages 1-2) "U konkretnom slučaju, posebno je relevantna odredba člana 3 Zakona o krivičnom postupku, kojim je propisano da se invalida smatra nevinom na dot. se njegova krivica za krivično delo ne utvrdi pravovremenom odlukom suda, te da su svi državni i drugi organi i organizacije, sredstva javnog obaveštavanja, udruženja i javne ličnosti dužni da se pridržavaju ovoga pravila i da svojim javnim izjavama o krivičnim, krivičnom delu i postupku ne poreduju prava ovinjelog." "In the concrete case, Article 3 of the Law on Criminal Procedure is of special importance, for this provision states that everyone should be considered innocent unless proven guilty by a final court's decision, and that all state's and other bodies and organisations, media, associations and public figures are required to comply with this principle and not to infringe onto the rights of the accused by making public statements about him, the criminal offence or the criminal proceeding."	
Serbia	2018	Serbia / Equality body/Commissioner for Protection of Equality/07-00-583/2018-02	http://ravnopravnost.gov.rs/en/731-3E...	Migrant status	Commissioner for Protection of Equality (Povernik za zaštitu ravnopravnosti)	An NGO (Asylum Protection Centre) filed a complaint against telecommunications company who refused to conclude a postpaid service contract with a person from Iraq who was granted a refugee status in Serbia. The company stated that this contract cannot be concluded because the Iraqi national in question could not have presented his national passport but only an identification document for refugees that was issued by Serbian authorities.	The Commissioner for Protection of Equality found that pursuant to Articles 8 and 17 of Law on the Prohibition of Discrimination, the telecommunications company is a subjective eligibility criterion that allows for a differential treatment of refugees wishing to conclude a postpaid service contract with a telecommunications company. The only basis for this differential treatment is a subjective eligibility criterion that is based on one's being a refugee and that automatically makes this person an ineligible user.	The key issue was whether the telecommunications company's differential treatment of the refugee from Iraq had any objective legal basis in both national laws and internal business regulations. After conducting a thorough legal analysis of national laws and internal business regulations, the Commissioner concluded that there is no legal basis that allows for a differential treatment of refugees wishing to conclude a postpaid service contract with a telecommunications company. The only basis for this differential treatment is a subjective eligibility criterion that is based on one's being a refugee and that automatically makes this person an ineligible user.	The Commissioner for Protection of Equality recommended a telecommunications company to receive and reconsider the request for postpaid service contract submitted by the Iraqi refugee and to assess his ability to conclude the contract on equal footing, in the regular and individualized procedure within 30 days following the receipt of this opinion. If the company fails to do so, the Commissioner may issue a warning that can be made public if the company fails to comply with it.	The Commissioner for Protection of Equality recommended a telecommunications company to receive and reconsider the request for postpaid service contract submitted by the Iraqi refugee and to assess his ability to conclude the contract on equal footing, in the regular and individualized procedure within 30 days following the receipt of this opinion. If the company fails to do so, the Commissioner may issue a warning that can be made public if the company fails to comply with it.	"Kako odobrenje azila podrazumeva član spektra prava među kojima je i pravo lica da zasniva radni odnos i stiče imovinu i prihode – što čak predstavlja i poželjno ponašanje u cilju efikasne integracije pojedinca u njegovo novo okruženje, i imajući u vidu pravilo o preraspodeli tereta dokazivanja iz člana 45. stav 2. Zakona o zabrani diskriminacije. Povernik konstatuje da X. nije pružio činjenice i dokazne dokaze na osnovu kojih bi se moglo zaključiti da su postojali opravdani razlozi za neajednako postupanje prema H. A. M. u odnosu na drugu lica, već je utvrdeno da je X. po automatizmu, odbio da zaključi postpaid preplatični ugovor sa H. A. M. isključivo zbog njegovog statusa lica kojem je odobren azil, imajući u vidu da je u mejlu poslatom podnosiocu pritužbe, čija sadržina nije osprema u ispunjenju, navedeno da kompanija X. ne zasniva nikakav vid preplatičnog odnosa sa „azilantima“. Zbog toga, postavljanjem ovakvog ograničenja koje se odnosi odnosa na lica kojima je odobreno pravo na azil, kompanija X. sprovodi proceduru procene svakog pojedinačnog klijenta, nakon što dostave identifikaciona dokumenta, uključujući ličnu kartu za lice kome je odobreno pravo na azil, kako bi na osnovu objektivnih kriterijuma donela odluku o eventualnom zaključenju ugovora o pružanju telekomunikacionih usluga. Kako odobrenje azila podrazumeva član spektra prava među kojima je i pravo lica da zasniva radni odnos i stiče imovinu i prihode – što čak predstavlja i poželjno ponašanje u cilju efikasne integracije pojedinca u njegovo novo okruženje, i imajući u vidu pravilo o preraspodeli tereta dokazivanja iz člana 45. stav 2. Zakona o zabrani diskriminacije, Povernik konstatuje da X. nije pružio činjenice ni dokazne dokaze na osnovu kojih bi se moglo zaključiti da su postojali opravdani razlozi za neajednako postupanje prema H. A. M. u odnosu na drugu lica, već je utvrdeno da je X. po automatizmu, odbio da zaključi postpaid preplatični ugovor sa H. A. M. isključivo zbog njegovog statusa lica kojem je odobren azil, imajući u vidu da je u mejlu poslatom podnosiocu pritužbe, čija sadržina nije osprema u ispunjenju, navedeno da kompanija X. ne zasniva nikakav vid preplatičnog odnosa sa „azilantima“. Zbog toga, postavljanjem ovakvog ograničenja koje se odnosi odnosa na lica kojima je odobreno pravo na azil, kompanija X. sprovodi proceduru procene svakog pojedinačnog klijenta, nakon što dostave identifikaciona dokumenta, uključujući ličnu kartu za lice kome je odobreno pravo na azil, kako bi na osnovu objektivnih kriterijuma donela odluku o eventualnom zaključenju ugovora o pružanju telekomunikacionih usluga." (para. 3.2.3.) "Since the refugee status implies the whole spectrum of rights including one's right to work and to acquire income and property – which even represents a desirable conduct in terms of one's integration in the new society, and having in mind the evidentiary standard rule from Article 45 (2) of the Anti-Discrimination Act, the Commissioner considers that the company X. did not provide facts nor did it advance evidence upon which it could be concluded that the reasons for a differential treatment towards H.A.M. were well-grounded. It was established that the company X. automatically refused to conclude a postpaid service contract with H.A.M. solely on the basis of his being granted asylum, given that the company informed him by email, the content of which was not disputed, that it does not conclude any kind of prepaid service arrangement with „asylum“. For that reason, the imposition of this impediment that a priori affects all persons who were granted asylum, and having in mind the consequences of this impediment, the Commissioner opines that the company X. needs to conduct the procedure for assessment of all clients on individual basis upon they submit their identification documents, including the identification document for refugees, so that it can make a decision concerning the provision of telecommunication services that is based on objective criteria."
Slovakia	2018	Slovakia / Specialized Criminal Court / 4718/2018	https://iban.justice.sk/info/sud/info...	Race/Ethnicity, Migrant status	Specialized Criminal Court, Office Banská Bystrica	The case concerns online incitement to violence and hate through public Facebook profile against group of persons based on their actual or presumed affiliation to race, nation, ethnic group and based on their actual or presumed origin, skin-colour, religion, public incitement to oppression of their freedoms and rights. In particular, the defendant published on his Facebook profile a picture of a soldier with a rifle from a barrel point of view with a commentary: "We are expecting them...Negros, who want to come..." He also commented: "The only welcome for migrants!!" on a picture posted on other public Facebook profile depicting three soldiers in German uniforms, one of which was using a machine gun. He also continually kept and disseminated materials of extremist character. In particular, mainly related to White Power ideology and affiliation to groups promoting oppression of basic human rights of Jews, Roma and foreigners.	The case was not put through a public court trial. The judge of the Specialized Criminal Court issued a verdict accepting the agreement between the defendant and the prosecutor of the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic and the defendant, by accepting the agreement, the defendant renounced his right to public trial and appeal from verdict. He was convicted of offense of incitement of violence and hate based on §42z art. 1, of the Criminal Code in parallel with crime of dissemination of extremist material according to §42zb art. 1, art.2 (letter b) of Penal Code and other (Act no. 300/2005 Coll Criminal Code). The issued verdict did not contain further argumentation beyond list of committed offense, crime and gathered evidence (stated in key facts).	The case did not bring new interpretations or concepts. Defendant accepted the agreement proposed by the prosecutor from the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic.	The Specialized Criminal Court issued a verdict accepting the agreement between the defendant and the prosecutor of the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic. The court did not find any major violation of procedural rules and did not find the agreement as obviously inadequate. Based on the agreement confirmed by the verdict, the defendant was sentenced to cumulative 2 years of imprisonment, while applying suspended term of imprisonment and supervision for 3 years period.	The court did not issue its own reasoning, it just accepted the agreement between the Special Prosecutor Office and the defendant.	
Spain	2018	Spain / Supreme Court Social Section (Tribunal Supremo, Sala de lo Social) / ATS 6331/2018 - ECLI:ES:15:2018:6331A	http://www.poderjudicial.es/ats/2018...	Religion	Supreme Court (Tribunal Supremo)	The court found lawful and proportionate a penalty of suspension of employment of a Muslim woman because she was using her Islamic veil at the workplace. The claimant worked at a mushroom collection pawn, Cultivo, Riola SL, under a permanent and full-time employment contract since July 2015. On April 2016, the company communicated her by written a penalty of suspension of employment and wages of 15 days, for serious infringement and breach of contract, because using the Islamic veil at her workplace. The company argued that the Islamic veil was outside the cap (part of the mandatory working uniform) she was obliged to wear at her workplace based on hygienic reasons. She did continue to wear it though and on July 2016, the company informed her again by written of her second disciplinary dismissal for the same reason.	The court did not find any evidence of injury to the right to dignity of the claimant. Another appeal is not possible. It was declared as inadmissible. No litigation costs were imposed on the claimant.	To what extent the company's decision to set aside the Islamic veil constitutes a decision that does not curtail the constitutional right to religious freedom and if it did respond only to labour safety and hygiene reasons.	Her disciplinary dismissal was considered as appropriate. This last appeal was declared inadmissible. Another appeal is not possible. It was declared as inadmissible. No litigation costs were imposed on the claimant.	"It should be inferred that the measure taken by the defendant has not any kind of connection or relationship with the use of the Islamic veil, but that the defendant has fully established that its decision is totally unrelated to that circumstance. ...cupiera inferi que la medida adoptada por la empresa tenga cualquier tipo de vinculación o relación con el uso del velo islámico, sino que la empresa ha acreditado cumplidamente que su decisión es totalmente extrañaja y ajena a dicha circunstancia."	
Sweden	2018	Sweden / Labour Court / A-12-2017	http://www.rattsinfook.dom.se/lagrumme...	Religion	Labour Court (Arbetsdomstolen)	The court found that a woman who worked at a school and refused to shake hands with a male colleague and as a consequence did not return to work at the school the following day was not discriminated against. The plaintiff (F.E.S) worked as a substitute teacher when she refused to shake hands with a male colleague. F.E.S claimed that she after the incident was told that she could not work at the school anymore. Thus, F.E.S maintained that she was discriminated on grounds of her religion. The school stated that nobody in the school had discriminated F.E.S. The case was processed in the Labour Court.	The court did not find any evidence of injury to the right to dignity of the claimant. Another appeal is not possible. It was declared as inadmissible. No litigation costs were imposed on the claimant.	The case shows that one person's descriptions of discriminating incident, without any further proof e.g. a policy or a witness, is not enough to sentence someone for discrimination. It also clarifies that a general rule to avoid discrimination on all grounds (including sex) triumphs a religious minority's wish to avoid shaking hands with the opposite sex. Thus, a rule that enforce handshaking on such religious minorities cannot be considered discriminatory since the rule itself is in place to minimise discrimination. It is also interesting to note that the Labour Court's position on what kind of religious expressions that can be considered protected by Swedish law is different here than in the case above: processed only a couple of months earlier.	The court dismissed the action against the school. Consequently, the Union, who represented F.E.S, had to pay the school's legal costs as well. The situation was not considered to be discrimination as it is defined by law.	Sammanlagt finner Arbetsdomstolen att Unionen inte har förmått visa att Kunskapskollekt har uppställt ett krav på att handhålla även på manliga kollegor som lett till att F.E.S. inte har kunnat utföra vare sig inplanerade eller framtida vikarieuppdrag på skolan. Detta gäller alltså oavsett att L.M. har uppgett att hennes uppgiftning är att det inte är förenligt med skollagen och läroplanen att arbeta på skolan och inte kunnat ta samtidiga kolleger i hand. Etterson Unionen inte kunnat göra diskriminerande antagande, behöver de omständigheterna som motparten åberopat mot att diskriminering föreligger inte prövas. Arbetsdomstolen konstaterar således att utredningen i målet inte gett stöd för att F.E.S. har diskriminerats. (All in all, the Labour Court finds that the Union has not been able to show that the Knowledge School has imposed a requirement to shake hands also with male colleagues, which made F.E.S. unable to perform either planned or future temporary assignments at the school. This remains the case regardless of whether L.M. stated that her opinion is that it is not compatible with the Education Act and the school curriculum to work at the school while not being able to shake the hand of all colleagues. Since the Union has not been able to make discrimination plausible, the circumstances the plaintiff relied upon to prove discrimination do not need to be further examined. Thus, the Labour Court finds that the investigation in the case does not support F.E.S.' claim that she has been discriminated against.)	
Sweden	2018	Sweden / Labour Court/ A-46-2017	http://www.rattsinfook.dom.se/lagrumme...	Religion	Labour Court (Arbetsdomstolen)	The court found it unlawful to end a recruiting process with a woman because the fact that she did not want to shake hands with a male manager. The proportional penalty was to economically compensate the plaintiff for the discrimination. The plaintiff, F.A. represented, by the Equality Ombudsman, applied for an opening as interpreter. During an recruiting interview, F.A. did not shake hands with a male representative of the company, with referral to her religious beliefs. As a result, the interpretation company immediately aborted the recruitment process. The company later claimed they had a policy that says all employees must shake hands with everyone. The case concerning whether F.A. had been exposed to indirect discrimination was processed by the Labour Court.	The Labour Court concluded that F.A.'s refusal to shake hands with persons of the opposite sex is her right as of article 9 in the European Convention. According to the Labour Court, "certain religions" as mentioned in the Discrimination Act, must be considered to include at least such religious manifestations which are protected by article 9 in the European Convention. Consequently, the Labour Court's position on what kind of religious expressions that can be considered protected by Swedish law is different here than in the case above - processed only a couple of months later.	The court found the interpretation company guilty of indirect discrimination. The company had to pay the legal costs of the Equality Ombudsman (Diskrimineringsombudsmanen) who pleaded F.A.'s case. Furthermore, the company had to pay F.A. an adequate compensation for the discrimination.	"Sammanlagt finner Arbetsdomstolen att Semantix policy inte är lämplig och nödvändig för att säkerställa att arbetssökande lever upp till det krav på jämställda agerande i arbetslivet som bolaget uppställer, eller till följd av sin syn på relationen mellan män och kvinnor onskas hinder eller svårigheter i arbetet eller för verksamheten. Domstolen beaktar även att en sådan policy som Semantix upprätthåller är ägnad att utesluta personer som gör samma tolkning av våld som F.A., från deltagande i rekryteringsprocessen. I målet har åberopats ett uttalande av professor C.W. om förhållandet mellan god tolkning, tolkars neutralitetsprincip och religiösa symboler och uttryck. Hennes slutsats är att en tolk som av religiösa skäl hållar gnom att lägga handen på hjärtat i stället för att handhålla inte bryter mot neutralitetsprincipen enligt god tolkning. Inte heller utredningen i övrigt ger stöd för att så skulle vara fallet. Sammanfattningsvis finner Arbetsdomstolen att Semantix policy inte är lämplig och nödvändig för att uppnå sina syften och att bolaget, genom att använda rekryteringsförloret, har utsett F.A. för indirekt diskriminering." "All in all, the Labour Court finds that Semantix's policy is neither appropriate and necessary to ensure that the company nor to ensure that the relationship between men and women does not cause obstacles or difficulties at work or for the company. The Court also takes into account that such a policy as Semantix' is aimed to exclude persons, who interprets Islam in the same manner as F.A., from the labour market. A statement made by professor C.W. was made in the case concerning the relationship between good interpretive practices, the principle of interpreter neutrality and religious symbols and expressions. Her conclusion was that interpreters who, for religious reasons, greet others by placing their hand on their heart instead of shaking hands do not violate the principle of neutrality according to the code of good interpretation. Nor does the investigation otherwise provide support for this position. In summary, the Labour Court finds that Semantix's policy is neither appropriate nor necessary in order to achieve its stated objectives and that, by interrupting the recruitment procedure, the company has exposed F.A. to indirect discrimination."		
United Kingdom	2018	United Kingdom / R v Franssen and Golding	https://www.bbc.com/news/uk-politics-4630121	Religion	Magistrates Court	The defendants in this case were Paul Golding and Jayda Franssen, the leader and deputy-leader (respectively) of far-right group, Britain First. In May 2017, as four Muslim men stood trial for the gang rape of a 16-year girl in Kent, the defendants distributed leaflets and posted videos of themselves aggressively confronting people they viewed to be the men on trial and targeting what they believed to be their homes. The videos were posted on Britain First's website and Facebook page and included remarks such as, "Dirty Muslim rapist, come out, we're not going to leave until you're gone, come out. Dirty scumbags."	The prosecution argued, inter alia, that the defendants were not merely exercising their right to free speech but were instead aiming religiously-aggravated abuse at innocent members of the public.	This was an important case as Britain First are one of the most prominent Anti-Muslim groups in the UK. Additionally, many far right groups use similar tactics in their activism and use the technique of identifying, sometimes incorrectly, Muslim defendants to stir up hatred.	Jayda Franssen received a nine month custodial sentence and Paul Golding received an 18 weeks custodial sentence.	"I am sure that when Miss Franssen and Mr Golding decided to come to Kent, their reason was not because four men were on trial for the rape of a 16-year-old girl. The reason for their decision was that they included Muslim immigrants. I have no doubt it was the joint intention to use the case for their own ends. It was a case about Islam and immigrant backlash and not about a 16-year-old girl. I have no doubt that Miss Franssen and Mr Golding demonstrated, by their words and actions, hostility to those of the Muslim faith."	
Austria	2019	Austria / European Court of Human Rights / E.S. v. Austria (Application no. 38450/12)	https://hudoc.echr.coe.int/eng/?i=r...	Religion	European Court of Human Rights	E.S. alleged that her criminal conviction for disparaging religious doctrines had given rise to a violation of Article 10 of the European Convention on Human Rights. The Court found that the impugned statements were not phrased in a neutral manner aimed at making an objective contribution to a public debate concerning child marriages, but amounted to a generalisation without a factual basis. The Court found that the Austrian courts comprehensively assessed the wider context of the statements in question, and carefully balanced her right to freedom of expression with the rights of others to have their religious feelings protected and to have religious peace preserved in Austrian society.	The Court noted that the subject matter is of a particularly sensitive nature, and that the potential effects of the impugned statements tend, to a certain degree, on the situation in the country where the statements were made at the time and the context in which they were made. The Court therefore considers that the domestic authorities had a wide margin of appreciation in the instant case, as they were in a better position to evaluate which statements were likely to disturb the religious peace in their country.	The European Court of Human Rights found that the Austrian domestic courts did not overstep their margin of appreciation when convicting E.S. of disparaging religious doctrines pursuant to § 188 of the Austrian Criminal Code. The European Court of Human Rights ruled that there has been no violation of Article 10 of the European Convention on Human Rights.	"Therefore, the Court considers that the domestic courts did not overstep their - wide - margin of appreciation in the instant case when convicting the applicant of disparaging religious doctrines. Accordingly, there has been no violation of Article 10 of the Convention."		

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Belgium	2019	Belgium / Court of First Instance of Antwerp / No number found	https://www.unia.be/files/Documenten/Ra...	Race/Ethnicity, Gender, Religion	Court of first instance Antwerp department Antwerp criminal matters (Rechtbank van eerste aanleg Antwerpen afdeling Antwerpen strafzaken)	Guns, illegal weapons, an alarm gun, posters about stopping Islamization and two laptops were found in the defendant's home. Through Twitter, he proposed ethnic cleansing of people of Moroccan origin. Via Twitter, he repeatedly harassed UNIA's director by calling her a rat, public traitor, anti-Semite, and a "Muslim sucking collaborator" while alongside her picture, because he felt that UNIA takes complaints lodged by Muslims seriously and others not. The defendant also harassed a UNIA policy officer, inciting to hatred and violence against her based on her origin alongside her picture, because he had the impression that she hates Jews and because anti-Semitism are criminals who must be punished. The defendant also used Twitter to explicitly target the Muslim community. During the investigation, the defendant said that his tweets were unacceptable. The case was introduced by UNIA (equality body) and two civil parties.	The court found the facts of the charges to be very serious. It stated that the possession of weapons leads to social insecurity. Furthermore, the Court argued that the defendant consciously and carefully acted in a way to incite others to racism. He not only posted racist messages himself on Twitter, but also allowed his Twitter followers to continue to post racist comments. By harassing two ladies who work at UNIA, the defendant also seriously disturbed these people's peace. The facts demonstrate that the defendant has a total lack of respect for other human beings as well as for society.	In this case, the defendant not only targets the Muslim community in Belgium, but also the people - the director of UNIA and a policy officer at UNIA - who are seen as collaborators of the Muslim community. As a result, the defendant's motive to harass both women and to ask his "followers" to bully and terrorise them was his hatred, disapproval of and hostility towards the plaintiffs based on their descent, ethnic origin (of the policy officer) as well as his disapproval of their gender. Intersectionality thus plays an important role in this case and the Court gave special consideration to it.	The Court determined that the facts have been proved. The defendant is condemned to 10 months imprisonment (with 5 years postponement considering his personality, his chance of improvement and social integration) and a 800 euro fine (or 1 month imprisonment if not paid). The Court also forfeited the defendant's weapons. The defendant has to pay 20 euro to the Budget for the costs of the second-line assistance, 53,58 euro for the management costs in criminal cases, 200 euro to finance the Fund to help victims of intentional acts of violence, and 28,25 euro for the costs of the criminal claim. In civil matters, the defendant has to pay damages to the plaintiffs (each amount to be increased with the compensatory interest from 1 January 2016 to date, the legal interest and the costs): 500 euro to UNIA, 750 euro to the director of UNIA, and 750 to the policy officer at UNIA. Additionally, he has to pay the justice compensation of each plaintiff (240 euro each).	"Via zijn Twitter account roept beklagde expliciet op tot geweld tegen en het vermoorden van moslims. Door zijn webverantwoordelijkheid zet beklagde anderen bewust aan tot racisme. Hij plaatst racistische berichten en laat "volgers" toe racistische commentaren te blijven plaatsen. In onze maatschappij, die getuigt van op gelijkheid van kansen zonder enige onderscheid, kan dit niet getolereerd worden. De feiten getuigen van een totaal gebrek aan respect voor de medemens en de maatschappij." "Through his Twitter account, the defendant explicitly calls for violence against and the killing of Muslims. Through his conscious and well-considered actions, the defendant consciously incites third parties to racism. He posts racist messages and allows "followers" to keep spouting racist comments. In our society, which is based on equality of opportunity without any distinction, this cannot be tolerated. The facts bear witness to a total lack of respect for fellow human beings and society."
Cyprus	2019	Cyprus / Complaint No. 13/26/3/2019	http://www.cmcc.org.cy/Decision/index...	Migrant status	Cyprus Media Complaints Committee (Επιτροπή Δημοσιογραφικής Δεοντολογίας)	The Cyprus Media Complaints Committee (CMCC) received complaints from five Paphos residents regarding an article published in two internet papers which had published the letter of the president of an association which used derogatory and racist language against groups of persons and contained incitement for reversing a decision of the city's municipal council through an undemocratic process. The letter published by these sites referred to a citizens' protest outside the municipal hall when the municipal council was considering a proposal to build a church inside the city's main municipal park. The crowd of protesters had gathered outside the town hall in order to express their disagreement with the proposal to build the church inside the park. The letter published, which formed the subject matter of this complaint, suggested that the protesters, described as communists, Muslims, Britons, Germans and other foreigners, were violent and frightened the members of the municipal council and alleged that the park had become a point of gathering for neo-fascists, adding that the protesters would presumably have no objection if a mosque was built in the garden instead. One of the media outlets that had published this letter argued that it was their policy to publish letters from members of the public even if they disagreed with their content and that the letter, in their view did not contain insults or libel.	The CMCC found that the publication of the letter infringed the journalistic Ethics Code which prohibits language that incites racial hatred, incites religious, ethnic, racial, national or political hatred and singled them out as enemies of Christianity because they objected to the construction of a church in the municipal park. From the reasons of the media outlets it emerged that they had little awareness of the requirements regarding hate speech either in the legislation or in the Journalistic Ethics Code.	The monitoring body clarified that media outlets are not at liberty to publish letters from members of the public which use derogatory language against persons on the ground of their racial origin, religion or belief, even if the content falls short from amounting to libel. Language used by the author was derogatory and racist towards the protesters' national origin, muslim religion and political belief and singled them out as enemies of Christianity because they objected to the construction of a church in the municipal park. From the reasons of the media outlets it emerged that they had little awareness of the requirements regarding hate speech either in the legislation or in the Journalistic Ethics Code.	This body does not have the power to impose sanctions. The decision however establishes that media outlets cannot publish letters from members of the public if their content is problematic. The derogatory references to persons on the ground of their religion, race/ethnicity or racial belief are not acceptable.	"Η Επιτροπή αποφάνθηκε ότι οι αναφερόμενοι στην προσφορά οι εθνοτικές ομάδες, και όσους διακρίνουν (έθνοτική ή καταγωγική προέλευση) από τον/την δημοσιογράφο, είναι πρόσωπα, χωρίς διάκριση των φύλων που άρθρου 12 του Κώδικα Δημοσιογραφικής Δεοντολογίας περί αποφυγής διακρίσεων βάσει φύλου, εθνοτικής καταγωγής, ή πολιτικής προέλευσης." "The Committee decided that the references in the letter to supporters of a political party and to persons of different ethnicities amount to intolerant, xenophobic and racist rhetoric, in violation of the provision of article 12 of the Journalistic Ethics Code concerning discrimination on the ground of belief or ethnic origin or racial descent."
Finland	2019	Finland / District court of Itä-Uusimaa / R 181/2010/70		Religion, Race/Ethnicity	The District Court of Itä-Uusimaa (Itä-Uusimaan käräjäoikeus / Östra Nylandss tingsrätt)	The defendant (Mr Pietariäinen) had published several Facebook posts between April 2016 and September 2017. In his posts, the defendant attacked Islam as a religion and Muslims as a group. For example, he described Islam as the shooting of the slogan "We do not want Salafist pigs" and the grilling of body parts of pigs. In the run-up to the assembly, a pig's head was laid in front of a mosque in a pool of blood and a swastika was painted on the wall. On the Facebook website of the association the comment was published: "Who doesn't something like this? Laughing emojis and a pig emoji [...] But in principle, of course, we welcome any non-violent form of civil disobedience."	The court applied the relevant provisions in the Criminal Code (incitement to hatred and breach of the sanctity of religion) in the light of the right to freedom of expression as provided for in the Constitution Act and the ECHR. The court found that the defendant had in his posts threatened, defamed and insulted Muslims on the basis of their religion. He had overstepped the limits of freedom of expression and provocation tolerated under the right to freedom of expression. Freedom of expression allows for the criticism of all religions. The defendant's statements had targeted both Muslims as a religious community and their prophet. The court held that the statements were made for the purpose of offending and in order to defame or denigrate what is held sacred by a religious community.	Freedom of expression allows for a certain degree of exaggeration and provocation and the freedom of the press. Threatening, insulting, defaming or degrading a group of people on the basis of their religion is punishable.	The defendant was found guilty of incitement to hatred and breach of sanctity of religion. He was sentenced a joint day fine for both offences. The defendant's amount to 80 day fines (480 euros). The court also ordered that the Facebook posts that had been found to be illegal, were to be deleted.	"Pietariäinen syyllinen luottava kiihottamisrikos on islaminuskoisten ihmisten ihmisenä luokkaa verratun väkivallan, kiihottamiseksi sisällään ulkomaalaisia ja ulkomaalaisuutta vihan leikkomista muslimien ja muslimien, kirjoittanut ovat luottavaan rasisia ja kolonisaattoria nita on pietariäinen vahingoittamis, ja kun otetaan huomioon se, että kirjoittaja on ollut pitkin ajan kuluessa useita, soittavat ne Pietariäinen karunatunnaa vyyrytyksiä." "The act of incitement to hatred which Pietariäinen has committed is of a relatively serious nature because it violates the human dignity of Muslim people. The posts contain threats and similar acts of incitement to hatred towards Muslims. The posts are racist in their character and as a whole they are to be considered very harmful. Also, the fact that there have been several posts during a long period of time, is strong proof of Pietariäinen's guilt."
Germany	2019	Germany / Administrative Court of Düsseldorf (Verwaltungsgericht Düsseldorf) / 18 L 1566/19 ECLI:DE:VGD-2019-0601:18L1566:19-00	https://www.justiz.nw.de/ver/ovg/ovg...	Religion	Administrative Court of Düsseldorf (Verwaltungsgericht Düsseldorf)	The applicant, an association, objected against requirements imposed by the police on an assembly organized by it. The assembly had the title "We do not want Salafist pigs - not in N. - not in Germany". The police prohibited the shouting of the slogan "We do not want Salafist pigs" and the grilling of body parts of pigs. In the run-up to the assembly, a pig's head was laid in front of a mosque in a pool of blood and a swastika was painted on the wall. On the Facebook website of the association the comment was published: "Who doesn't something like this? Laughing emojis and a pig emoji [...] But in principle, of course, we welcome any non-violent form of civil disobedience."	The court ruled that the police's risk assessment (Gefährdungsprozess) and the resulting official requirements for the assembly were plausible. Furthermore, the planned shouting of the slogan would probably go beyond the protected area of freedom of expression because it was clearly intended to provoke the Muslim community. Therefore, the public interest in enforcing the conditions prevailed.	Balancing the interests of the assembly participants in freedom of assembly and freedom of opinion vs. the risk assessment of the police with regard to the commission of criminal offences out of an anti-Muslim motivation.	The emergency appeal was rejected and the assembly was only allowed to take place as required by the police.	"Die Einschätzung des Polizeipräsidiums M., dass vor diesem Hintergrund die mit den betreffenden Auflagen untersagten Handlungen und Verhaltensweisen zur erhöhten Einschüchterung/Bedrohung der muslimischen Gemeinde, einem Klima der Gewaltbereitschaft und zur Provokation der Versammlungsteilnehmer und Dritter zu strafbaren Handlungen führen, ist ihm nach zumindest nachvollziehbar." "The assessment of the Police [...] that, against this background, the actions and behaviour prohibited by the relevant authorities would lead to increased intimidation/threat of the Muslim community and a climate of violence and would provoke assembly participants and third parties to criminal acts is therefore at least understandable."
Hungary	2019	Hungary / Constitutional Court/VI/1565/2018.	https://public.mkab.hu/de/dokument...	Migrant status	Constitutional Court of Hungary	Amnesty International Hungary filed a constitutional complaint against the Stop Soros act, claiming that the law is vague, is not proportionate, is against the freedom of speech and the right of association. The Hungarian Government adopted the "Stop Soros" legislative package in 2018. The Criminal Code was amended by a provision on facilitating illegal migration (353A. §), which defines supporting illegal migration as any organisational activity to initiate asylum procedure for anyone who was not persecuted at home or in a country in which they have arrived in Hungary. Such an illegal offence can be punishable by up to 1 year of imprisonment if it is repeated or is done for financial gain.	Regarding the vagueness of the provision, the Court pointed out that there were no adequate grounds to conclude that the specific definitions were uninterpretable. Considering the restriction of freedom of expression, the Court noted that the provision does not impose any restriction on the content of public debates, dissemination of information (supportive) ideas on migration, or other activities that persuade others to commit an unlawful act. The right of association is not prohibited only those that aim a specific purpose and as this right is not unlimited, it can be restricted. The Court moreover added that the provision shall not be extended to acts that aim to help the vulnerable and poor.	The main issue of the case is vagueness of the law and the uncertainty of the criminal act. Amnesty International Hungary claimed that it is hardly possible for anyone working with asylum-seekers to know whether or not he/she was persecuted or if his/her case is well-founded or not. The Court declared that the law can only sanction those intentional actions when the perpetrator is aware that he/she is engaged in an organisational activity for a person who is not subject to persecution or whose fear is not well-founded. The duty is on the investigating authorities to prove that the perpetrator was aware of that.	The Court ruled that Section 353A § on facilitating illegal migration is not unconstitutional, thus rejected Amnesty International Hungary's constitutional complaint. It, however, established that the provision shall not be extended to altruistic conduct aiming to perform the obligation of helping the vulnerable and the poor.	"A bűncselekmény elkövetéséhez... a célt az alkotásában azt és csak azt kell az elkövető tudatának átgondolnia, vagyis arról kell tudnia, hogy olyan személy érdekében folytat szerező tevékenységet, aki nincs az ún. őtök valamelyike miatt üldözésnek kitéve... vagy a közvetlen (közvetett) sajtó feléme nem megalapozott." "... with regard to the purpose, the offence shall be deemed to have been committed when the perpetrator is conscious of - i.e. knows that - being engaged in the organising activity in the interest of a person who is not subject to persecution but in the so called five cases... or whose fear of persecution is not well-founded." (AZ ALKOTMÁNYBÍROSKODÁS 2018. (II. 7.) AB HATÁROZATA, 2019. 7. szám, pp. 318-319)
Lithuania	2019	Lithuania / Supreme administrative court of Lithuania / administrative case No. A-1854-662/2019	https://eidosml.rlyba/245524863121...	Religion	The Supreme Administrative Court of Lithuania (Lietuvos Vyriausybės administracinis teismas)	A convicted person complained that he lodged request to prison authorities to have halal food and that he asked for an answer to his request in russian or Lithuanian language. The prison authorities did not approve his request and replied in Lithuanian language.	The court established that by current Lithuanian legislation and standards prison authorities are not obliged to provide special religious food, but have responsibility to provide food which could be fit to consume for religious persons as possible. In addition, prison authorities are providing vegetarian/vegan food and corrects have possibility to buy food from shops that was established, that the complainant had requested to use and buy food from shop and could use vegetarian/vegan food, thus the prison authorities did not discriminate on religious grounds. However, the prison authorities were obliged to provide a reply in a language that the convict could understand, thus their answer in Lithuanian language was considered as unlawful.	Prison authorities are not obliged to provide special religious food, but only strive to create conditions and food to fit religious needs.	The complaint was dismissed, and the first instance court ruling was left in force, as it was established that the prison authorities were obliged to provide an answer in language which the convicted person would understand.	"Byloje nustatytos aplinkybės patvirtino, kad pareiškėjų buvo sudarytos sąlygos maitintis pagal juos patvirtintą, bet nebuvo atsižvelgta į jų religines tikėjimo ypatybes." "Established facts prove, that plaintiff had conditions to eat according to his religious beliefs and there were no information, that he was discriminated by religious groups."
Luxembourg	2019	Luxembourg / Administrative Court of Luxembourg (3rd Chamber) / Case no. 40948	https://www.la.letat.lu/0001-45000/40948...	Religion	Administrative Court (Tribunal Administratif du Grand-Duché de Luxembourg)	A Luxembourgish citizen of Muslim faith submitted her application for the renewal of her driving license with a passport photo with her head covered by a veil. The administrative authority informed her that the processing of her request was only possible if she submits a complete application, namely, an application containing a 4535 cm passport type photo on which her head is uncovered. The applicant, after several exchanges of letters with the authorities, decided to challenge the decision before the administrative court.	On the merits, the applicant argued that she was a Luxembourgish citizen of Muslim faith who, as such, covered her hair with a veil/niqab; her face remains uncovered. Her hair is an element of her intimacy. Thus, having to dispose her hair or a photo that is not private is inconceivable. For her, this constitutes a violation of her private and intimate life, let alone, her freedom to practice her religion and belief. On the procedural part, she argued that the domestic legislation under which the authorities had denied processing her request had been based on the transposition of Directive 2006/126/EC, which transposition had taken place without any proper justification, in an "urgent" law-making process, thus the Council of State (Conseil d'Etat) had had no opportunity to form its opinion on the bill.	The administrative court, having dealt only with the procedural arguments, held that the transposition of the relevant EU directive had taken place within a framework of an "urgent" law-making process. The fact that the administrative proceedings had been launched against Luxembourg owing to the delay of the transposition of the directive's certain provisions could have served, by itself, as justification of an urgent process. However, the infringement proceedings did not concern the disputed provisions on the photograph. The application of such "urgent" process was devoid of any justification in respect of the provision relating to the characteristics of the photograph to be affixed to the driving license.	In the absence of any justification of the "urgent" law-making process, the administrative court declared the provision relating to the characteristics of the photograph to be affixed to the driving license illegal and thus inapplicable in the case. The contested administrative decision must be set aside and the previous version of the relevant law-decree must be applied to the applicant's request for the renewal of her driving license.	"[...] force est au tribunal de constater que la modification [...] ayant trait aux caractéristiques de la photographie à apposer sur le permis de conduire, tend à redresser des « imperfections » apparues dans la législation nationale et n'était pas visée par la Commission européenne dans le cadre de sa procédure d'infraction [...] aucune motivation quant au recours à la procédure d'urgence n'a été avancée par la partie étatique [...] L'illégalité de l'article [...] ayant ainsi été constatée par le tribunal, il doit être déclaré inapplicable en l'espèce, par application de l'article 95 de la Constitution." " [...] it is for the court to find that the amendment [...] relating to the characteristics of the photograph to be affixed to the driving license, tends to correct "imperfections" appeared in the national legislation and was not targeted by the European Commission within the framework of its infringement procedure [...] no reasoning for the use of the urgency procedure has been advanced by the State party [...] The illegality of Article [...] has thus been found by the court; it must be declared inapplicable in this case pursuant to Article 95 of the Constitution."
Netherlands	2019	Netherlands / Administrative High Court / 17/2755 PW	https://uitspraken.rechtspraak.nl/in...	Religion	Netherlands / Administrative High Court	A muslim man receives social assistance benefit from the municipality of Tilburg. If you receive social assistance, you are obliged to make use of the possibilities offered by the municipality to get a job or to increase the chances of finding a job, for example by attending a training course. The muslim man attend each Friday afternoon the mosque out of religious convictions. He was offered a trainee ship during which he had to work also on Friday afternoons. The municipality reduced the benefit because he wished to visit the mosque on Friday afternoons. The Administrative High Court ruled that the wish to visit the mosque on Friday afternoons falls within the scope of freedom of religion. The obligation to work Friday afternoons is therefore a violation of the freedom of religion. The municipality of Tilburg should not have reduced the Muslim's social security benefit.	A muslim man who receives social assistance benefits is not obliged to accept a trainee ship during which he had to work on Friday afternoons, because the wish of the Muslim man to visit the mosque on Friday afternoons falls within the scope of freedom of religion. A reduction of his benefit because of his refusal to accept a traineeship constitutes a violation of freedom of religion.	A person who receives social assistance benefits is not obliged to accept work or a traineeship on days or hours in which he fulfills a religious duty.	The municipality of Tilburg should not have reduced the social assistance benefit of a Muslim man because of his refusal of traineeship during which he had to work on Friday afternoons.	"Om in de onderhavige casus de bescherming van artikel 9 van het EVRM, in het bijzonder de vrijheid van godsdienst of overtuiging, te kunnen inroepen, dient sprake te zijn van een gedraging die kan worden aangemerkt als het belijden van een godsdienst of overtuiging. Tussen partijen is niet in geschil dat de wets van applicant om de moskee te bezoeken, is gebaseerd op zijn geloofsovertuiging. De door het college aan applicant opgelegde verplichting om op (alle) vrijdagmiddagen te werken, betekent appellant structureel in het moskeebezoek. Het opleggen van deze verplichting vormt een inbreuk op het recht op godsdienstvrijheid." "In order to invoke Article 9 of the ECHR, the freedom of religion or belief, in the present case, there must be behaviour that can be regarded as the practice of a religion or belief. It is not disputed between the parties that the applicant's wish to visit the mosque is based on his religious conviction. The obligation imposed on the applicant by the Municipality to work on (all) Friday afternoons structurally impedes the applicant's visit to the mosque. Imposing this obligation is a violation of the right to religious freedom." "The Netherlands Administrative High Court (Centrale Raad van Beroep) (2019), Case no. 2.172755 PW, 26 February 2019, ECLI:NL:CRVB:2019-481, available at: https://uitspraken.rechtspraak.nl/instantiezoekersblad?act=ECLI:NL:CRVB:2019-481
Slovakia	2019	Slovakia / Specialized Criminal Court / 27/15/2019	https://obran.justice.sk/informaci...	Race/Ethnicity, Race/Ethnicity, Religion	Specialized Criminal Court/Office Proznok	The case concerns multiple crimes and offences committed within years 2012-2018 mainly online through public facebook profile, involving incitement to violence and hate, threats, hate speech and defamation targeting Islamic religion and culture, Muslims, black people and people of African origin, Roma, Jews and migrants. Examples from the evidence are posted comments "to shoot migrants and gypsies as well" or posted pictures and posts that disrespect Islamic religion. The defendant was also accused of publicly disseminating extremist materials, of sympathizing with extremist groups and of keeping higher quantity of methamphetamine.	The case was not put through a public trial. The judge of the Specialized Criminal Court issued a verdict accepting the agreement between the prosecutor of the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic and the defendant. By accepting the agreement, the defendant renounced himself from the right to public trial and appeal from verdict. He was convicted of offences and crimes based on §424 art. 1, art. 3, §422Z art.1, art.2 letter b), §422Z, §423 art.1 letter a-b), §171 art.2, of the Criminal Code Act no. 300/2005 Coll Criminal Code).	The case did not bring new interpretations or concepts. Defendant accepted the agreement proposed by the prosecutor from the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic.	The Specialized Criminal Court issued a verdict accepting the agreement between the defendant and the prosecutor of the Special Prosecution Office of the General Prosecutors Office of the Slovak Republic. The judge did not find any major violation of procedural rules and did not find the agreement as obviously inadequate. The court raised unproven allegations to the agreement, which were accepted by the defendant. Based on the verdict, the defendant was sentenced to cumulative 3 years of imprisonment, while applying suspended term of imprisonment and supervision for 5 years period.	The court did not issue its own reasoning, it just accepted the agreement between the Special Prosecutor Office and the defendant.

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Slovakia	2019	Slovakia / District Court Martin / 1371/175/2017	https://obcjan.justice.sk/infopudc/info...	Race/Ethnicity, Religion	District Court Martin	The case concerns online incitement to hatred against persons of Islamic religion. In 2016 unknown author posted a picture of a building depicting the residence of the Association of Muslims in the middle Slovakia and corresponding phone numbers with a commentary: "They have a mosque in Martin. Not with minaret, but still they have." Defendant commented on this post: "If I find out, where they meet, I'm willing to join and f...k them out of there. What an insolence to do. We have Matka (name of the cultural institution without focus on Slovak nation, does not have equivalent in English) where our Slovak language came from and some d...ck will f...k me here. Honour to our cross, honour to our Matka. I am Slovak and I will be Slovak and I have to protect this land with my hands and legs so some bastards as these do not claim any piece of Martin. ... This comment was posted publicly and read by multiple users of the social network."	The defendant was accused of public incitement to violence and hate against group of persons based on their religion and thus committing an offense of incitement, defamation and threat against persons based on their race, nation, nationality, skincolor, ethnic group or origin based on Art.24a art.1 letter a) of the Criminal Code effective until 31.12.2016 (Act no. 300/2005 Coll Criminal Code). The verdict does not contain justification, because both prosecutor and the defendant renounced their right to appeal.	The case did not bring any further clarification/interpretation to the law application.	The judge issued a verdict sentencing the defendant to prison for a period of 1 year with suspension establishing 2 years probationary period.	The decision did not contain the reasoning of the court.
Slovakia	2019	Slovakia / the Supreme Court of the Slovak Republic / 4Voppp/1/2017	https://obcjan.justice.sk/infopudc/info...	Migrant status	The Supreme Court of the Slovak Republic	With regard to migrants, the main arguments of the General Prosecutor was that the party's goal not to accept a single migrant and to deport those already accepted is in contradiction to Universal Declaration of Human Rights, Convention relating to the Status of Refugees and Convention relating to the status of Stateless persons as well as to the Act on Foreigners Act 480/2002 in force, where the conditions to initiate prosecution are not met. Realisation of a political programme incompatible with values of the Convention, before it is realised through individual acts that are possibly threatening peace and democratic regime (Rifkin Partis against Turkey 1012). "According to ECtHR practice, actions themselves are not crucial (whether the party really incites violence, builds militia, etc.) but the potential to realise the change is in other words (with simplification), until the party is marginal, it can express freely. When it gains larger amount of votes, it will be dissolved because it gained the real potential for political change." According to the Supreme Court, the General Prosecutor did not submit enough evidence that the party is a real threat to democracy.	The Supreme Court referred to practice of ECtHR, while the most challenging proved to be the nonexistence of plausible evidence, that the threat to democracy is sufficiently imminent. ECtHR repeatedly acknowledged that "with regard to plurality of ideas and parties as inherent part of democracy, a state can inhibit realisation of a political project incompatible with values of the Convention, before it is realised through individual acts that are possibly threatening peace and democratic regime (Rifkin Partis against Turkey 1012)." According to ECtHR practice, actions themselves are not crucial (whether the party really incites violence, builds militia, etc.) but the potential to realise the change is in other words (with simplification), until the party is marginal, it can express freely. When it gains larger amount of votes, it will be dissolved because it gained the real potential for political change." According to the Supreme Court, the General Prosecutor did not submit enough evidence that the party is a real threat to democracy.	The Supreme Court issued a verdict denying dissolution of the party. In general, the court ruled that the General Prosecutor did not submit enough evidence to support his claim. It is not enough for a political party to express unconstitutional goals, but the accused political party must act upon these goals through real actions. Regarding migrants, the Supreme Court stated that the programme of the defendant is in line with the official policy of the government, whereas it is possible to refer to the lawsuit filed by the Slovak government at CJEU concerning quotas for distribution of migrants within EU.	"136. Z vykonaného dokazovania podľa názoru najvyššieho súdu je možné dospieť k záveru, že žalobca nepredložil dôkazy o tom, že riziko ohrozenia demokracie žiakovou politickou stranou je dostatočne bezprostredné. Žalovaná politická strana je síce stranou parlamentnou so 14 zvolenými poslancami (aktívne s 13 poslancami), avšak na príjme adhezióneho zákona 6 len zmeny zákona nedoplnuje potrebným počtom hlasov. Aby bolo možné pristúpiť k rozpušteniu politickej strany, nestačí podľa názoru najvyššieho súdu, len populističké prehlasovanie protibylých cieľov, ale žalovaná politická strana musí skutočne bojovať proti slobodnému demokratickému poriadku alebo existencii štátu na strane jednej a žalobca v žalobe optanými konkrétnymi skutkami musí takisto konanie opísať a podložiť dôkazmi. Za tohto skutočného stavu veci najvyšší súd sa nataraz neotázal a tvrdím žalobcu o bezprostrednej existencii rizika ohrozenia existujúceho demokratického zriadenia, keďže nebolo dostatočne konkrétne preukázané."	
Slovenia	2019	Slovenia / Supreme Court / Order X Ips 21/2019/ ECLI:SI:VRSR:2019:X.IPS.21.2019	http://www.sodnagpraksa.si/search.php?se...	Migrant status	Supreme Court of the Republic of Slovenia (Vrhovno sodišče Republike Slovenije)	In 2019, a municipality council adopted an order calling for a consultative referendum with the aim to establish the will of local residents regarding integration of refugees and migrants, accommodation of migrants who crossed the border in an irregular manner, and reception and registration of foreigners, that is - the establishment of an reception and registration centre in the territory of the municipality. The referendum question was the following: "Are you in favour of establishing a reception and registration centre for migrants in the territory of the municipality?" The Administrative Court ruled that the order was unlawful, as it concerned migration policy, the latter falling within the exclusive competence of the state. The court thus regarded the order as an individual rather than general municipal act. The judgment was challenged before the Supreme Court which established that the Administrative Court wrongly applied the law and annulled the judgment.	The Supreme Court, by means of referring to several prior decisions produced by the Constitutional Court, established that an act on calling a municipal consultative referendum represented a municipal regulation (i.e. general municipality act related to its functioning), and not an individual municipal act (i.e. decision concerning administrative issues under a person's consent). By establishing the legal nature of the municipal act, the court ruled that it was the competence of the Constitutional Court, and not the Administrative Court, to assess its compliance with the constitution and the law. According to the Supreme Court, the legal status of a municipal act was not determined by its compliance with the law, as wrongly established by the Administrative Court.	The Supreme Court clarified the legal nature of an act governing the call for municipal consultative referendum, namely that it represented a general (i.e. regulation) rather than an individual municipality act. As a result, it is the Constitutional Court which is responsible to review its compliance with the constitution and the law.	The Supreme Court annulled the judgment produced by the Administrative Court, and established that an order calling for a consultative referendum was a municipal regulation and that it was up to the Constitutional Court to decide on whether such a regulation was consistent with the constitution and the law. The outcome of the case shall thus depend of possible future actions by relevant bodies (e.g. municipality council).	"Iz obrazložitve izpodbijane sodbe je razvidno, da je Upravno sodišče svoje sklepanje, da gre v obravnavanem primeru za konkreten in posamičen akt in ne za splošni akt, naparajo oprto na presojo njegove nezakonitosti. Ugovor glede pristojnosti Upravnega sodišča za odločanje je namreč zavrnitvijo, da se referendumsko vprašanje nanša na vprašanje, ki ni v pristojnosti občinskega sveta. Pravna narava splošnega akta in s tem pristojnost za odločanje Upravnega sodišča pa ni odvisna od njegove nezakonitosti."
Spain	2019	Spain / Barcelona Provincial High Court, Criminal Judgement (Sentencia Audiencia Provincial de Barcelona. Sala de lo Penal) (2019-219 Reg. SAP B 6183/2019 - ECLI: ES-APB-2019-6183)	http://www.poderjudicial.es/bsj/search/obse...	Religion	Barcelona Provincial High Court (Audiencia Provincial de Barcelona)	In 2016, the defendant "Cipriano" uploaded in his Facebook profile hatred comments towards Muslims and attack a woman because of wearing a hijab. He was moved by an attitude of deep contempt and rejection towards people who profess the Muslim religion, and with the desire to generate feelings of violence and hatred against them. He posted on the internet several offensive expressions aimed at people related to that religion, such as "kill islamists", "death to Islam". The posts were public on the network, obtaining a great dissemination (2.532 friends and 135 followers on Facebook). Besides that in 2016, he did attack a Moroccan national woman who wore the hijab by telling her "go to your country" and he gave her with a sweep of his hand and as a result of it, she did suffer an injury on her skin that last 4 days.	The Public Prosecutor's Office initiated the Provisional prosecution. The defendant agreed with the Public Prosecutor's Office's proposal, considering the period of suspension, participating in a training program for human rights and respect for the diversity of people and participating in a program for the prevention and treatment of violent behaviors.	The Public Prosecutor's Office agreed with the defendant on the application of Art. 83 CP (not committing any crime during the period of suspension, participating in a training program for human rights and respect for the diversity of people and participating in a program for the prevention and treatment of violent behaviors).	From a crime against the fundamental rights of Article 510.1(a) and 5 of the CP and a crime against the moral integrity of Article 173.1 CP - 6 months in prison. A penalty of special disqualification for the educational profession or profession, in the field of teaching for a period longer than three years. From a minor offence of Article 147.2 of the CP - 1 month fine. To the payment of the procedural costs. Civil liability to payment of 150 euros for the injuries suffered, and 300 euros for the moral damage caused.	"De'l 25 de junio de 2015 al 30 de septiembre de 2016, a través el perfil "Cipriano" de la red Facebook movió esencialmente por una actitud de profundo desprecio y rechazo hacia las personas que profesan la religión musulmana, y con la voluntad de generar entre la población sentimientos de violencia y odio contra las mismas, publicó en internet varias expresiones ofensivas dirigida a las personas afines a dicha religión. "From June 25, 2015 to September 30, 2016, through the "Cipriano" Facebook profile and essentially moved by an attitude of deep contempt and rejection towards people who profess the Muslim religion, and with the will to generate among the general public, a sentiment of violence and hatred against them, he published on the internet several offensive expressions aimed at people related to that religion"
Spain	2019	Spain / Madrid Provincial High Court, Criminal Judgement (Audiencia Provincial de Madrid. Sala de lo Penal) / SAP M 1843/2019, Rec. 2037/2019 - ECLI: ES-APM-2019-1843	http://www.poderjudicial.es/bsj/search/obse...	Religion	Madrid Provincial High Court (Audiencia Provincial de Madrid)	The perpetrator uploaded in his YouTube channel hatred songs from a number of RAC music songs including anti-Muslim lyrics. In 2012, the defendant created a YouTube channel (1.827 subscribers and 626.063 views). The channel created with the clear intention of encouraging and spreading hatred and discrimination against foreign groups. In 2016, he changed its profile name to "Remember Sound Channel" with a total of 176 videos posted, nine of them belong to the musical style named as RAC (Rock Against Communism). RAC is one of the mass media used to promote and spread hatred, discrimination and violence on racist, anti-Semitic, xenophobic and ideological grounds. Five of the videos mentioned contained lyrics with racist, homophobic and islamophobic messages. He was detained in December 2016.	It's considered a crime against fundamental rights (Art. 510.2 a) and Art. 503 of the Criminal Code). Special disqualification for educational profession or teaching position, as well as teacher on sports or free time activities for a period of 4 years and 3 months (Article 510.5 of Criminal Code). Charged with the payment of the Court fees.	From a crime against the fundamental rights of Article 510.2(a) and Art. 503 of the Criminal Code. Special disqualification for educational profession or teaching position, as well as teacher on sports or free time activities for a period of 4 years and 3 months (Article 510.5 of Criminal Code). Charged with the payment of the Court fees. Judgment was declared final. It was granted the suspension of the execution of the judgement for a period of two years, while he should not commit a crime. On December 14, 2017, while the "Remember Sound Channel" remained active, the videos had been removed from the YouTube social platform.	"En las canciones de esas bandas nacionalistas, concretamente en cinco (5) de los vídeos mencionados se observan en sus letras los, siguientes mensajes racistas, homofobos e islamofobos, y expresiones que incitaban al odio, la violencia, la discriminación y la hostilidad contra determinadas personas extranjeras) These facts are clearly attempts against the dignity of the immigrant collective. (Estos hechos son claramente atentatorios contra la dignidad del colectivo inmigrante." "In the songs of these nationalist bands, specifically in five (5) of the videos mentioned its lyrics were hatred, violence, discrimination and hostility against certain foreign persons"	
United Kingdom	2019	United Kingdom / R v Bitton (David) (2019) EWCA Crim 1372		Race/Ethnicity, Religion, Migrant status	Court of Appeal	In May 2016, the month leading up to referendum on leaving the European Union, the appellant had published 86 messages on his public Twitter account that contained offensive and inappropriate terms and which expressed pro-Brexit, islamophobic, anti-immigration, Anti-Semitic and racist sentiments. Examples of such tweets are as follows: "That's right. When we blow up 50 mosques you will soon get in your smelly houses and shut your curry breath mouth."; "Stay in the EU. Will get a lot of Muslims killed, we hate them."; and "Mass Murder the Muslims at Dover". The appellant had pled guilty to six offences publishing written material that was threatening, abusive or insulting with intent to stir up racial hatred and was sentenced to four years imprisonment. The sentence included a reduction at the maximum credit for having pled guilty at the earliest opportunity, meaning that the sentence of six years identified by the sentencing judge as the appropriate sentence was reduced to four.	The Court of Appeal, in line with previous case law, identified the relevant considerations to be taken when sentencing offences of publishing written material that are threatening, abusive or insulting with intent to stir up racial hatred: (i) the nature of the publication and the intent behind it; (ii) the need to deter others; (iii) the number of people who saw the material; and (iv) the consequences of them having seen it.	The case resulted in a reduction of a four year sentence for the appellant to a two year sentence (having identified the six year starting point as excessive). Although this appeal led to the reduction of the custodial sentence of the appellant, it has contributed to the growing body of case law that acts as an indicator for the appropriate type of sentence for this type of offence and shows that a lengthy custodial sentence remains important as, inter alia, a need to deter others from such actions.	"The tweets that the appellant published were of an utterly vile nature. No right thinking person could consider them to be anything other than abhorrent. The publication of this kind of material is corrosive to our society and highly damaging. We have, however, concluded that the length of sentence after a trial that the Recorder identified as being appropriate was simply too long. Apalling though the tweets were, such a sentence is out of line with the cases to which we have referred. Whilst his outpourings on Twitter are properly to be condemned as utterly reprehensible, the sentence passed by the Recorder is simply too long when examined in the context of the other cases to which we have referred."	

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United Kingdom	2019	United Kingdom / Her Majesty's Attorney General v Vaxley-Lennon (2019) EWHC 1791 (QB)	https://www.bailii.org/uk/cases/EWHC/QB/2019/1791.html	Religion	High Court	The case relates to actions amounting to contempt of court by the respondent, Stephen Vaxley-Lennon also known as Tommy Robinson, a prominent far-right and anti-Islam activist and co-founder of the English Defence League. On 25 May 2018, whilst on a suspended sentence for breaching reporting restrictions, the respondent recorded a Facebook live post outside Leeds Crown Court which made reference to various details of a live trial that was subject to a reporting postponement order. During the recording he also aggressively confronted the defendants of the trial as they arrived at court. The trial related to the prosecution of men of Asian descent on charges of sexual offences against minors, whom the respondent referred to as "Muslim child rapists" in his video. Accordingly, he was sentenced to 13 months in prison.	The court found that even when there has been prior reporting or when matters that are given in evidence had been previously public, it does not prevent a court from making a Reporting Restriction Order (RRO). The court further held that in order to establish a breach of such an order, the test is subjective recklessness and that there is no requirement to prove that the alleged contemnor had actual knowledge of the terms of the order. In this connection the court noted that the respondent clearly had knowledge of the RRO as he had mentioned it in the video concerned. The court also found that fact the content of the video, in particular the segment where the respondent allegedly incited the harassments of the defendants in the trial, would have resulted in those defendants feeling intimidated and at risk and that was enough in itself to constitute a breach of the RRO. The court characterised the respondent's behaviour as intimidating, aggressive and provocative and gave rise to a real risk that the defendants whom he confronted would have been upset and agitated by such actions and thus be unable to participate in serious criminal proceedings. The fact the respondent simultaneously filmed these actions was noted and the court found that condoning such behaviour would pose a significant risk to the wider interest of the justice system. Finally, the court noted that imposing penalties for breach of an RRO represented a breach of the right to freedom of expression under Article 10 ECHR but that such an interference could not justify interference with fair trial rights.	This case is significant in the context of anti-Muslim and anti-migrant hate owing to the high profile of the respondent and the fact that he and his supporters frequently use the reporting of such cases to push their far right agenda. The case itself has also been used by his supporters to further their agenda with posts such as this: www.tr.news/its-time-for-a-political-revolution/	The High Court upheld that the respondent had committed contempt of court by breaching reporting restrictions and received a custodial sentence.	The Attorney General identifies eight main features of the Video, as follows... "The respondent expressly described himself as "reporting on" the Alkatra trial." "He related the alleged offending to wider patterns of offending (other instances of large-scale child exploitation in northern cities and across the country); he suggested this conduct had largely occurred without prosecution; he referred in derogatory terms to the ethnic and religious backgrounds and associations of the criminal defendants; he gave graphic and disturbing examples of other historic sexual offences committed by Muslim men; and suggested that "sexual slaves" are permitted, if not encouraged, by Islam as a religion." "At another point, the respondent incited viewers to harass the criminal defendants. The words relied on are: "You want to harass someone's family? You see that man who was getting aggressive as he walked into court, the man who faces charges of child abduction, rape, prostitution - harass him, find him, go knock on his door, follow him, see where he works, see what he's doing. You want to stick pictures online and call people and slander people, how about you do it about them?"
Austria	2019	Austria / Austrian Press Council (Österreichischer Presserat), Medien24 GmbH	https://www.presserat.at/ite/ujadownload...	Migrant status	Austrian Press Council (Österreichischer Presserat)	An article published in "wochenblick.at" on 22 August 2019 reported about an increased mistreatment of hedgehogs and cruel killings of other wild animals in a Swedish town. The article reported that according to the chairman of the Animal Friends, this is especially the case in areas with a high density of migrants. The article is accompanied by a "symbolic picture" showing a mosque with migrants in front of a Swedish flag. In the background, a thundery sky with several flashes of lightning is visible.	The picture showing a mosque with migrants in front of a Swedish flag and a thundery sky with several flashes of lightning in the background gives the impression that Islam or Muslims are the cause or originator of the cruelty to animals. This picture Muslims under a general suspicion, although not all migrants are Muslims and of course not all Muslims are animal abusers.	The Austrian Press Council found that this article violated the "Principles for journalistic work" - Code of Honour for the Austrian Press" (Point 7)	The Austrian Press Council requested the media owner to report about the decision taken by the Austrian Press Council.	"Der Senat vertritt daher die Ansicht, dass das dem Artikel beigefügte Bild gegen Punkt 7 des Ehrenkodex (Schutz von Pauschalverunglimpfung und Diskriminierung) verstößt, indem durch die oben beschriebene Bildkomposition der Eindruck erweckt wird, dass der Islam bzw. Muslime Ursache bzw. Urheber der beschriebenen Tierquälereien seien. "Die Senatsebene teilt die Ansicht, dass die dem Artikel beigefügte Abbildung gegen Punkt 7 des Code of Honour (protection of blanket disparagement and discrimination) in that the picture composition described above gives the impression that Islam or Muslims are the cause or originator of the cruelty to animals described."
Czechia	2019	Czech Republic / Regional Court	http://zkraken.slv.cz/676674/2019	Religion	Supreme Court	The case concerns both online and offline incitement to hatred and violence against an ethnic and religious group (Jews and Muslims). The defendant for a long period of time publicly published, spoke, and wrote speeches and comments that deliberately expressed and promoted a negative view of immigrants, predominantly those of Muslim faith, coming from areas mainly in the Middle East and North Africa, precisely because of their Muslim faith, but also because of their diversity as an ethnic group.	The defendant was involving the right to a fair trial as well as freedom of expression. The Court emphasised that manifestations of freedom of expression have to be interpreted in their context and that hate speech, which does not enjoy protection under freedom of expression.	The Supreme Court came to the conclusion that the interference with his freedom of expression occurred in accordance with the conditions set out in Article 10 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms. The Court emphasised that the European Court of Human Rights had repeatedly ruled that expressions that evoke or justify violence, hatred, or intolerance (eg anti-Semitic expressions or Holocaust denial) do not enjoy protection under freedom of expression.	The District Court for Prague 1 found the defendant guilty of several crimes including the defamation of a nation, race, ethnic or other group of persons, incitement of hatred against a group of persons, or the denial, questioning, approval and justifying of genocide. The defendant was sentenced to a total sentence of two years' imprisonment, which was conditionally suspended for a probationary period of three years, while providing for the supervision of a probation and mediation officer. The appellate court confirmed the judgment for the most part and only annulled the sentence by which the defendant was sentenced to relinquish his copyright.	"41. (Obžalovaný) je po právu trestně postihován za to, že a jak svou extrémní animozitu zejména k židům a muslimům projevovat, totiž ve vyhrančené nenávislosti a vulgárně dikci, alekta za hranici toho, co je v civilizované společnosti přípustné, při tom zároveň takto plošně množil prostředky kanaly zvláště akčně a ofenzivně." "41. (The defendant) is rightly punished for the fact that he and he vulgarized his extreme animosity, especially towards Jews and Muslims, namely in intensely hateful and vulgar diction, far beyond what is permissible in civilized society, he also acted particularly actively through multiple channels and in an offensive manner."
Czechia	2019	Czech Republic / Regional Court	https://justice.cz/web/obkresni-soud...	Religion	District Court (Jindřichův Hradec)	The defendant was found guilty of inciting hatred and violence against an ethnic group, which he committed with a comment calling on members of the Czech nation to awaken their Hussite blood and expel "fucking Muslim maladapted monkeys", "sinking pakaz", or "sitouze" [džezabags] from the Czech Republic, which he concluded with the words (cf.): "OUR COUNTRY, OUR HABITS, OUR GIRLS AND BEER! WE WILL NOT LEAVE THEM ANY OF IT!"	not available	not available	The defendant was sentenced to a total fine of CZK 8,000 and a substitute sentence of imprisonment for a period of two months.	not available
Czechia	2019	Czech Republic / Regional Court	https://www.justice.cz/web/obkresni-soud...	Religion	District Court Chomutov	The defendant was found guilty of defamation of a nation, race, ethnic or other groups of people, which she committed by publishing the following comment: "I keep saying this, this race of animals does not belong in Europe."	not available	not available	For this conduct, she was sentenced to three months' imprisonment, which was suspended for a probationary period of one year.	not available
Germany	2019	Germany / Federal Administrative Court (Bundesverwaltungsgericht) / 2 WDB 3 19 / ECLI:DE:BVerwG:2019:09101982WDB3.19.0	https://www.bverwg.de/09101982WDB3.19.0	Migrant status, Religion	Federal Administrative Court (Bundesverwaltungsgericht)	A soldier had made several racist, antisemitic and anti-Muslim statements in a WhatsApp group and towards a lieutenant. He had shared, for example, in the WhatsApp group a picture showing a helmet of a Christian crusader with the slogan "There doesn't need to be a Muslim ban, if there are no Muslims" and said to the lieutenant that the refugee crisis could be solved by shooting down the refugee boats in the Mediterranean Sea. Thereupon the soldier's commander took disciplinary action by temporarily suspending the soldier of duty, prohibiting him wearing the uniform and cutting his pay. The military disciplinary court overturned the commander's order. Against this decision the military disciplinary lawyer of the Federal Armed Forces (Bundeswehr) opened disciplinary proceedings.	The Federal Administrative Court confirmed the temporary suspension of the soldier's duty as well as the prohibition of wearing the uniform due to the nationalistic, racist and antisemitic content of his statements. The cutting of pay was not confirmed as the Court found it unlikely that the soldier adheres to Nazi ideology.	The Federal Administrative Court had to decide whether the soldier's statements did justify disciplinary action against him.	The complaint of the military disciplinary lawyer was partially successful.	"Die Übernahmen sind auch bei Berücksichtigung des Hintergrunds, vor dem die gefassten sind, ihrem Inhalt nach nationalstolz, rassistisch und antisemitisch; insbesondere die "Unterhaltungskomponente" ändert nichts an dem objektiven Sinn und Gehalt der Äußerungen." "The statements are, even when considering the circumstances in which they have been made, of nationalistic, racist and antisemitic content; particularly the "component of entertainment" does not change the objective meaning and content of the statement."
Germany	2019	Germany / Higher Labour Court of Baden-Württemberg (Landesarbeitsgericht Baden-Württemberg) / 17 Sa 319 / ECLI:DE:LAGBW-2019-1205.17SA3.19.00	http://bw.laurl.de/laurl/bw/laurl...	Religion	Higher Labour Court of Baden-Württemberg (Landesarbeitsgericht Baden-Württemberg)	The plaintiff took legal action against an extraordinary termination of his employment contract due to messages he had sent to a colleague of Turkish origin and Muslim faith. These messages included, among others, an image file showing a mosque under the heading "In Bavaria a mosque has been opened, and during the first prayer some Bavarians infiltrated and fired shots into the air. I am sending you this recording as you hear the preacher has changed his prayer... added by an audio file playing the sound of prayer chants which after being interrupted by shots change to yodelling. Another image file showed an apparently Muslim extended family under the heading "Many Muslims take a second or third wife whereas we Germans take a second or third job to finance our lives".	The Court confirmed the extraordinary termination.	The State Labour Court had to examine whether the messages sent by the plaintiff constituted an important reason to justify an extraordinary termination of the contract of employment.	The appeal of the plaintiff was rejected.	"Bei den oben genannten WhatsApp-Nachrichten handelt es sich um Schmähtik, die nicht von Artikel 5 Absatz 1 GG geschützt ist. Aus Sicht der Kammer kann offenbleiben, ob diese Nachrichten als Satire empfunden sind. Einbeziehung und Aussagen der beiden Nachrichten beschränken sich nämlich auf eine Missachtung und Herabwürdigung von Menschen mit muslimischer Religionszugehörigkeit. Die Grenze zur Schmähtik wird damit jedenfalls überschritten." "The WhatsApp messages are abusive criticism which is not protected by Article 5 (1) of the Basic Law. From the perspective of the court chamber it can remain open whether the messages can be classified as satire. The form and the core of the content of both messages narrow down the defence and degradation of persons of Muslim faith. In any case, the line to abusive criticism is thus crossed."
Germany	2019	Germany / Higher Labour Court of Rhineland Palatinate (Landesarbeitsgericht Rheinland-Pfalz) / 3 Sa 132/19 / ECLI:DE:LAGRP-2019-1216.3Sa132.19.00	http://www.landrecht.rlp.de/porta...	Religion	Higher Labour Court of Rhineland Palatinate (Landesarbeitsgericht Rheinland-Pfalz)	The plaintiff claims compensation because of a rejection of an application. The defendant had advertised an apprenticeship for office management. The plaintiff sent her application with a photograph attached that showed her wearing a headscarf, whereupon the defendant replied: "I assume that your application is surely not meant seriously and you surely only drafted an alias letter to receive welfare benefit. My advice for the future: in case you ever wanted to write a serious application, do without the 'headscarf'."	The court ruled that the plaintiff has the claim to damages in the amount of 1.500 Euro.	The Court had to decide whether the plaintiff has a claim of damages on ground of discrimination.	The Court confirmed the prior instance decision.	"Im vorliegenden Fall gilt, dass die zumindest auch durch das religiös motivierte Tragen eines Kopftuches verursachte Abgabe durch das Abgabeschreiben deutlich indiziert ist, auch wenn das Kopftuch nicht als Grund für die Abgabe benannt wird sondern nur Gegenstand eines „Ratschlags“ für künftige Bewerbungen ist." "In this case, the rejection letter clearly indicates that the rejection is at least also caused by the religiously motivated wearing of a headscarf, even though the headscarf is not named as the reason for the rejection but only as a matter of "advice" for future applications."
Denmark	2019	Denmark / The Court of the Faroe Islands	https://vidensbasen.anklagemyndigheden...	Religion	National Court / The Court of the Faroe Islands (Retten på Føroyerne)	The case concerns hate speech. The defendant was indicted for having made the following statements at a public café in the Faroe Islands: "I hate all Muslims, you are shitty people, who only want to exploit Denmark, you should all be thrown out of the country, Muslims are responsible for all crime in Denmark and Sweden", "I kill all Muslims, I beat you to death, Muslims should be exterminated", "I hate Muslims and if you say something I will smash you", "You are Muslims and you can go to hell once we kill you, then there are no Muslims left", "You are terrorists" and "You bomb and you kill and want to take over the whole world".	The court found the defendant guilty of violating § 266 b, section 1 in the criminal code, as the defendant made public statements in which Muslims as a group were threatened, mocked and degraded.	No key issues can be drawn on the basis of this particular case.	10 daily penalties of 300 DKK. The court found the defendant guilty of violating § 266 b, section 1.	"Vidner har forklaret, at tiltalte fremsatte de i anklageskriftet nævnte udtalelser eller udtalelser med tilsvarende indhold. Ved udtalelserne blev muslimer som en gruppe truet, hånet og nedværdiget. Udtalelserne blev fremsat i en offentlig tilgængelig restaurant, hvor der var flere tilfældige udfordrende til stede, der overhørte udtalelserne, hvilket må have stået tiltalte klart, når henses til, at han var højlydt, og at der var tale om et relativt lille lokale. Det er derfor bevis, at tiltalte er skyldig i overstemmelser med tiltaltes." "Witnesses have testified that the defendant made the statements mentioned in the indictment or statements with similar content. In the statements, Muslims as a group were threatened, lauded and degraded. The statements were made in a public restaurant, in which several uninvolved people were present and overheard the statements, which must have been clear to the defendant, given that he was loud and that it was a relatively small room. The defendant is therefore proven guilty in accordance with the indictment."
Denmark	2019	Denmark / The District Court of Svendborg	https://vidensbasen.anklagemyndigheden...	Religion	National Court (Retten i Svendborg)	The case concerns hate speech. The defendant was indicted for having made the following public Facebook post during a longer period: "Now Denmark Plague!" "Now Denmark is stuck with hundreds of 'refugees', criminals and individuals of other questionable skincolourorigin." "By the way Muslims are NOT a race (they always invoke the RACISM-card) but they are a kind of rats." "Fuck all Muslim pigs. Now this is freedom of speech... I repeat: Fuck all Muslim Pigs. NB: Public post" and "Again an excellent example of small black brains! 'Fucking whore', 'I fuck your mom', 'You are a racist' etc. You can see clearly how dumb these monkeys are. No mercy. Out of our Denmark, Muslim free Denmark."	The court found the defendant guilty of violating § 266 b, section 1 in the criminal code.	No key issues can be drawn on the basis of this particular case.	Suspended sentence of 60 days of imprisonment as the defendant was also found guilty of another violation of the criminal code.	"Retten har fundet tiltalte skyldig i overtrædelse af bl.a. straffelovens § 266 b, stk. 1, ved igennem en længere periode at have skrevet de nævnte opslag på sin åbne Facebook-profil." "The court found the defendant guilty of violating § 266 b, section 1 in the criminal code by having written the posts mentioned in the indictment on his public Facebook profile"
Denmark	2019	Denmark / The District Court of Roskilde	https://vidensbasen.anklagemyndigheden...	Religion	National Court (Retten i Roskilde)	The defendant wrote a public post on Facebook. The defendant wrote: "It is Allan who gives them problems, they have bred like hell to be enough to carry out jihad against us. Muslims should only be helped with condoms, birth control pills, sterilization, etc."	The court found the defendant guilty of violating § 266 b, section 1 in the criminal code. The judgement was given in default.	No key issues can be drawn on the basis of this particular case.	8 daily penalties of 400 DKK. The court found the defendant guilty of violating § 266 b, section 1.	"Retten har fundet tiltalte skyldig i overtrædelse af straffelovens § 266 b, stk. 1, ved den 27. maj 2016 i et åbent Facebook-opslag at have skrevet den omtalte tekst." "The court found the defendant guilty of violating § 266 b, section 1 in the criminal code, by writing the text mentioned in the indictment in a public Facebook post on 27 May 2016."

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Greece	2019	Greece / Council of State/Decisions Nos. 1759-1760/2019 of the Plenary	http://www.adjustice.gr/webcenter/bocta...	Religion	Greek Council of State	Through Decisions nos. 1759-1760 / 2019 the Plenary of the Council of State repealed Nos. 92091 / D2 / 5.6.2018 (B '2087) and 92094 / D2 / 5.6.2018 (B '2089) Decisions of the Minister of Education, insofar as they provided for students' religion to be included on high school diplomas, transcripts and certificates. The mandatory or optional inclusion of religion in the documents was considered to constitute a violation of Article 13 of the Helenic Constitution (religious freedom). Article 9 of the ECHR, as well as the provisions of personal data protection legislation (Law 2472/1997 and General Regulation 2016/679).	The Court found that the inclusion of religion on school documents, whether compulsory or optional, violates the provisions of Article 9 of the ECHR, as there is no reason for students' religion to be mentioned in the above documents, which, in view of their diverse uses, are not intended for the exercise of the right to manifest one's religious beliefs. In addition, any indication of religion in these documents could lead to discrimination against the individual in the professional relationships. Even the optional inclusion of a student's religion poses a risk for positive or negative discrimination between those who choose to disclose their religion and those who do not. On the other hand, the Court stated that, according to the relevant provisions of the Data Protection Law 2472/1997 and Regulation 2016/679 (GDPR), personal and even sensitive data, such as data on religious beliefs, in order to be collected in a legitimate and lawful manner for specified clear and legitimate purposes and must be treated applied according to the principle of proportionality solely for the purposes of specific processing. The inclusion of students' religion in the above documents was found to constitute a form of processing of a personal nature which must meet the above requirements. However, the inclusion of religion infringes Article 13 (1) of the Constitution and Articles 9 and 14 of the ECHR and the contested decisions, which provide for the processing of sensitive personal data without any legitimate purpose, are in contradiction with the provisions of Articles 2 par. b, 4 par. 1 par. and b of Law 2472/1997 and 5 par. 1 par. a and b and 9 par. 1 of the GDPR.	This is the first case of the Council of State which examined the protection of personal and sensitive data in light of the GDPR. Moreover, this case also showed that the inclusion of personal data on documents that certify an individual's education might in fact lead to discrimination based on religion. The proportionality test applied by the court constitutes a useful tool for future cases.	Ministerial Decision No. 1458/02 was issued by the Ministry of Education in September 2019 which abolished the inclusion of the religion and nationality of individuals on high school transcripts and diplomas. This was done in also in response to Decision No. 282019 of the Greek Data Protection Agency, which found that the contested Ministerial Decisions which called for the inclusion of a reference to high school students' religion and nationality was unconstitutional. What is more, the Greek Data Protection Agency stated that apart from not meeting the criteria of the principles of proportionality and necessity for the processing of personal data, the inclusion of a reference to students' religion on their high school diploma and transcripts could expose them to discrimination based on their religious beliefs, in violation of Article 13 of the Helenic Constitution.	"Ίσχυοντα με τις οικείες διατάξεις του ν. 2472/1997 και όδη του Κανονισμού 2016/679, οι βιογραφικές πληροφορίες απορριζώνται δεδομένο προσωπικού χαρακτήρα, και μάλιστα ευαίσθητο. Τα δεδομένα αυτά, όμω, εν προκειμένω, ο θρησκευτικές πληροφορίες, για να τριτονομή, επεξεργασίας, ήρεται να συλλεγόμενα κατά τρόπο θρησκευτικό και νόμιμο για εκπαιδευτικούς σκοπούς, οι νόμιμοι σκοποί και να υφίστανται θρησκευτικό και νόμιμο επεξεργασία εν όψει των σκοπών αυτών, καθώς και να είναι ονομαστικά, πρόσωπο και όχι προσωποεικόνα επί ενός κλίμακα ανατίναξης, των οκτώ της επεξεργασίας, ή καταχώρηση του θρησκευτικού των μαθητών στο απολυτήριο, τα αποδεικτικά στοιχεία και τα πιστοποιητικά σπουδών του γυμνασίου και του γενικού λυκείου, ανεξαρτήτως, αν είναι υποχρεωτική ή προαιρετική, όσωντος μπορεί επεξεργασίας, δεδομένου προσωπικού χαρακτήρα που ήρεται, να είναι το μόνο προσωπικό. Όμως, τέρσον η ονομαστική αυτή παραβολή, μετά το συνταγμα, το άρθρο 13 παρ. 1 του Συντάγματος και το άρθρο 9 και 14 της ΕΕΔΑ, οι προσβάλλουσες οποιαδήποτε τις οποίες προβάλλονται επεξεργασία υποχρεωτική δεδομένου χωρίς να υπάρχει νόμιμο σκοπό, έρεται, σε αντίθεση με τις διατάξεις των άρθρων 2 παρ. β, 4 παρ. 1 παρ.α και β του ν. 2472/1997 και 5 παρ. 1 παρ. α και β 9 παρ. 1 του Κανονισμού 2016/679." "According to the relevant provisions of Law 2472/1997 and Regulation 2016/679, religious beliefs are personal and even sensitive data. Such data, as in this case of religious beliefs, in order to be lawfully processed, must be collected in a legitimate and lawful manner for specified clear and legitimate purposes and must be treated legitimately and legally in the light of those purposes, since in order for it to be relevant, appropriate and no more than what is each time required for the purposes of processing. The inclusion of students' religion in the diplomas, transcripts and certificates of study at the gymnasium and general high school, whether compulsory or optional, constitutes a form of processing data of a personal nature which must meet the above requirements. However, since that inclusion infringes Article 13 (1) of the Constitution and Articles 9 and 14 of the ECHR, the contested decisions, which provide for the processing of sensitive personal data without any legitimate purpose, are in contradiction with the provisions of Articles 2 par. b, 4 par. 1 par. and b of Law 2472/1997 and 5 par. 1 par. a and b and 9 par. 1 of Regulation 2016/679."
Greece	2019	Greece / Greek Ombudsman/case 264690	https://www.synigmos.gr/resources/olpcc...	Religion	Ombudsman	The head of a nursing unit at a public hospital refused to permit a student of the Muslim faith to carry out her internship at the hospital while wearing a veil. The Ombudsman requested that the hospital's administration set out a specific and full justification, in compliance with the relevant provisions of Law 4443/2016 on the grounds for that decision. The hospital cited this was done on the grounds of public health, since the student's practical exercise would be carried out in the internal medicine or the surgery clinic.	The Ombudsman responded to a complaint submitted by a nursing student who claimed she faced discrimination based on her religious beliefs when carrying out her training at a public hospital. The hospital demanded that the nursing student refrain from wearing her veil during her training which is contrary to the provisions of the law. The Ombudsman contacted the head of the nursing unit and requested a specific and full justification in accordance with Law 4443/2016 which implemented the EU Directives 2000/43/EC and 2000/78/EC.	Given that the case is still being examined, a full report has not been issued yet. A short description is provided by the Ombudsman in its 2019 Special Report on Equal Treatment. The Ombudsman has recorded the incident as a case of discrimination based on religious beliefs. It should be noted that the head of the nursing unit invoked public health as a justification for not permitting the student to wear a veil.	The Ombudsman states in its 2019 Special Report on Equal Treatment that the case is still being investigated. There is no information on whether the head of the nursing unit has complied or not.	Not applicable. Given that the case is still being examined, a full report has not been issued yet. A short description is provided by the Ombudsman in its 2019 Special Report on Equal Treatment.
Finland	2019	Finland / Helsinki Court of Appeal / 19/147289, R19/1258 A copy of the decision can be requested from the registry of the Helsinki Court of Appeal.	https://oikeus.fi/hovioikeudet/helsinki...	Race/Ethnicity/Religion	Helsinki Court of Appeal (Helsingin hovioikeus/Helsingfors hovrätt)	The defendant (A) had quoted on his Twitter account statements which the Supreme Court had found defamatory in a case where a Finnish MP had been convicted of incitement to hatred and breach of the sanctity of religion (KKO:2012:28). The MP had described Islam as "a paedophile religion" and had said that "it's left and leading a parasitic life by living off welfare is a national and maybe even genetic characteristic of Somalis". The defendant A claimed that by quoting the statements on Twitter he wanted to criticize the Supreme Court decision, which he considered as "mischievous of justice". He had not made the objectionable statements himself but had only quoted the text of the decision. As a local politician, he had the right to express his views and generate public debate. Also, the Supreme Court decision had already been reported in the media at the time, without any imposition of criminal sanctions.	The court of appeal applied the relevant provisions in the Criminal Code (incitement to hatred and breach of the sanctity of religion) in light of freedom of expression as provided for in the Constitution Act, the ECHR and the case law of the European Court of Human Rights, particularly the cases of Féret v Belgium (16 July 2009) and Jersild v Denmark (23 September 1996). The court noted that it was not clear from the tweets posted by A and that they were not directed at and questioning the Supreme Court decision. It was thus difficult to understand them as criticism of the court. The court found that the defendant's role as a politician could not be considered as a mitigating circumstance.	Relying on the views of the European Court of Human Rights, the court of appeal emphasised the importance of making a distinction between factual reporting of racist actions and reporting with the purpose of propagation of racist views and ideas. The latter is not protected by freedom of expression.	The district court had sentenced the defendant to 60 day fines (€ 420) for incitement to hatred (ethnic agitation) and breach of the sanctity of religion. The court of appeal upheld the decision.	"Hovioikeus katsoo, että A:n panettelevia ja herjaava lausuma on ollut omaian herättämään keskustelunaiheesta, johon tulee vaikuttaa sallivammasti, missä ei ole ollut kyse sananvapauden rajoista. Lausuma on siten ymmärrettävissä niin sanotun vihapuheen kaltaiseksi lausumaksi, joka ei nauti sananvapauden suojaa." "Hovioikeus katsoo lisäksi, että A:n väittämä tarkoitus kysytystä korkeimman oikeuden ratkaisusta ei ole oikeuttanut sanonut kaltaisten herjaavien väitteiden esittämiseen, kun A on ilmiselvästi kiittänyt vain toistamalla sananvapauden katoamista lausuman esittämiseen. Tällaiset herjaavat lausumat ovat omaian herättämään ja vahvistamaan uskonnonilosta suvaitsemattomuutta ja ennakkoilmoitusta, eikä sanonutkaltaisen herjaaville lausumille ole annettava sananvapauden suojaa." "The court of appeal finds that A's defaming and insulting statement has been likely to arouse intolerance, contempt and possibly even hatred against the target group, Somalis. The statement can be categorised as hate speech, which does not enjoy the protection of freedom of expression. ... The court of appeal also finds that A's alleged purpose of criticizing the Supreme Court decision did not justify the publishing of the defaming statements, when A had expressed his criticism by simply repeating the objectionable statement as such. Such defamatory statements are likely to arouse and increase intolerance and prejudice against religious groups, and such statements shall not enjoy the protection of freedom of expression."
Finland	2019	Finland / Helsinki Court of Appeal / 19/141114, R18/2249 A copy of the decision can be requested from the registry of the Helsinki Court of Appeal.	https://oikeus.fi/hovioikeudet/helsinki...	Migrant status/Religion	Helsinki Court of Appeal (Helsingin hovioikeus/Helsingfors hovrätt)	The defendant (A) had posted several comments in various anti-immigrant, open Facebook groups. He used pejorative language when referring to migrants, asylum seekers, refugees and Muslims and, for example, accused migrants of mass rape and assault. The defendant claimed he was politically active and had wanted to take part in public debate on migration. The court found that the comments were threatening, defaming and insulting and constituted incitement to hatred.	The court of appeal applied the Criminal Code provisions on incitement to hatred in light of freedom of expression as provided for in the Constitution Act, the ECHR and the case law of the European Court of Human Rights. It noted that interference with the activities of the media is legitimate only in so far as it is unavoidable, taking due note of the importance of the freedom of expression in a democracy subject to the rule of law. Harsh comments cannot be regarded as being part of an objective and constructive public debate. Instead, they are a typical example of hate speech which is not protected by freedom of expression. A's position as a politically active person does not diminish his responsibility.	Constructive and even harsh criticism of immigration policy and person implementing it is permitted, whereas threatening, defaming and insulting an ethnic group is punishable.	The district court had sentenced the defendant to 50 day fines for incitement to hatred (ethnic agitation). The court of appeal upheld the decision.	"Hovioikeus katsoo, että vaikka viesteissä on ollut kyse yleisistä mielenkiintoa omaavasta keskustelunaiheista, johon tulee vaikuttaa sallivammasti, missä ei ole ollut kyse sananvapauden rajoista estehtyistä asiallisesta yhteiskunnallisesta keskustelusta tai maahanmuuttopolittikan arvostelusta. A:n viesteissään käyttämät haukkusanaa ja mielikuvat ovat olleet omaian herättämään keskustelunaiheesta, johon tulee vaikuttaa sallivammasti, missä ei ole ollut kyse sananvapauden rajoista. Hovioikeus katsoo, että A:n väittämä tarkoitus kysytystä korkeimman oikeuden ratkaisusta ei ole oikeuttanut sanonut kaltaisten herjaavien väitteiden esittämiseen, kun A on ilmiselvästi kiittänyt vain toistamalla sananvapauden katoamista lausuman esittämiseen. Tällaiset herjaavat lausumat ovat omaian herättämään ja vahvistamaan uskonnonilosta suvaitsemattomuutta ja ennakkoilmoitusta, eikä sanonutkaltaisen herjaaville lausumille ole annettava sananvapauden suojaa." "The court of appeal finds that although the comments were relating to a matter of public interest, in which case there is less scope for restrictions of freedom of expression, they did not contribute to a constructive public debate or criticism of immigration policy, within the boundaries of freedom of expression. The pejorative words and views in the comments were likely to arouse intolerance, contempt or even hatred against the ethnic groups they were referring to. On grounds as explained above and in the district court's decision, the court of appeal agrees with the district court and finds that the comments were a typical example of hate speech and incitement to hatred which are not protected by freedom of expression. The court of appeal finds that the outcome of the assessment would be the same, even when A had written the comments as a politically active person, because his role as a politician does not diminish his responsibility."
Finland	2019	Finland / District Court of Oulu / 19/143966, R19/1104 A copy of the decision can be requested from the registry of the District Court of Oulu.	https://oikeus.fi/karjaajoikeudet/oulu...	Race/Ethnicity/Religion	District Court of Oulu (Oulun kärjaajoikeus/Uleborgs tingsrätt)	The defendant, Mr. Tynkynen, was leader of the Finns Party Youth and member of the city council. He had posted on his Facebook page an article with the title "Terrorism does not know religion. Except for Islam". Tynkynen wrote, for example, that to say that there is no link between terrorism and Islam is just an "empty claim", and that Islam was "responsible for continuous killings around the world". Attached to the text were photos of men, who were allegedly responsible for various terrorist attacks in Europe. Tynkynen had written the word "Muslim" on top of each photo. Tynkynen had over 11,000 followers on Facebook.	The court applied the Criminal Code provisions on incitement to hatred, taking also into account freedom of expression as provided for in the Constitution Act, the ECHR and the case law of the European Court of Human Rights. The court found that Tynkynen had made strong generalisations concerning Muslims. He had failed to present any objective and counterbalancing elements which would have provided the reader with a more balanced view of the issues. The text did not refer to Muslim in general, but to Islam in particular. Instead, it connected terrorism with Islam in general, indicating that all Muslims are criminals. Such statements are likely to arouse intolerance, contempt and even hatred against Muslims. Political parties enjoy broad freedom of expression. However, Tynkynen could have expressed his concerns on problems linked to migration without defaming and insulting a specific religious group. His writing constitutes hate speech which does not enjoy the protection of freedom of expression.	Political parties have a right to express their views in public in matters relating to migration, even if they offend, shock or disturb part of the population. However, it is crucially important that politicians, when expressing themselves in public, avoid making comments that might foster intolerance.	The district court sentenced the defendant to 50 day fines (€ 4,200) for incitement to hatred. The defendant appealed against the decision, but the Rovaniemi Court of Appeal agreed with the district court and upheld the decision (D0123852, R19/862, 2/7/2020).	"Tynkynen on täytynyt ymmärtää julkaisunsa panettelevia ja solvavaa lausua. Tynkynen esille nostama ilmiin kerrotun kaltaista tiettyä uskontoa tunnustavien ryhmien panettelevia ja solvavaa. Tynkynen kirjoituksessa on kyse vihapuheen kaltaisista lausumista, jotka eivät nauti sananvapauden suojaa." "Tynkynen must on ymmärtänyt the defaming and insulting nature of his text. Tynkynen could have expressed his concerns on problems linked to migration without defaming and insulting a specific religious group. His writing constitutes hate speech which does not enjoy the protection of freedom of expression. Tynkynen's statements constituted hate speech which is not protected by freedom of expression."

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Spain	2020	Spain / Supreme Court / Judgement Nº 38/2020/ Section 1. Appeal 75/2019	http://www.poderjudicial.es/tribun/AN/...	Religion	Supreme Court, Military Chamber (Tribunal Supremo, Sala de lo Militar)	The appellant exercised his right to defend his legitimate interests covered by Article 24 of the Constitution using the arguments he considered most in line with the defence of his interests. The Supreme Court considered that the sanctioning administrative file that the appellant received after the claimant appeal against the negative decision issued after his exams and interview results, was not justified. Those sanctions were considered as an infringement of his rights of the defence by preventing a person subject to an administrative sanction from preparing the defence of his interests in the manner he deems most appropriate. The Supreme Court stated that the content of the message that the claimant included in his pleadings and, the value judgments and, the value judgments are covered by the right to defence of his interests recognized by Article 20.1(a) of the Constitution. Therefore, it was concluded that there was an infringement of the fundamental right to freedom of expression protected in Article 20 of the Spanish Constitution. The Supreme Court concluded that his right to religious freedom, as contained in Article 16.2 of the Spanish Constitution, was not infringed. Article 16.2 states that "no one may be compelled to profess, about his ideology, religion or beliefs" (nadie podrá ser obligado a declarar sobre su ideología, religión o creencias). Although the Supreme Court recognized that the wording of some of the questions put to it or considerations in the personal interview, were indirectly related to his religious beliefs or practices.	According to the Supreme Court, the infringement of the fundamental right to freedom of expression must be put into account in relation to the rights of the defence, which assisted the appellant in making the arguments which he considered most in line with the defence of his interests. There was a reference to the conclusions reached within the military internal investigation, where the Court concluded that there were mistakes and omissions when it merely exonerates from all disciplinary liability those responsible ones. The Supreme Court analyzed the existence or not of insulting, degrading or defamatory expressions, as well as possible critical considerations concerning the authority or the military institution. The fundamental right to sanctioning legality as contained in Article 25.1 of the Spanish Constitution was under discussion as to what extent was applicable the requirement of the faithfulness of the claimant's allegations, as contained in Article 8.22 of Organic Law 1/2007, of 22 October, of the Civil Guard disciplinary regime (Ley Orgánica 1/2007, de 22 de octubre, del régimen disciplinario de la Guardia Civil). The court indicates that religious freedom is a fundamental right. The claimant argued that his religious freedom was violated. The Supreme Court refers to the fact that one of the evaluators of the exam and interview stated that the appellant "puts his ethnic (Muslim) perspective before institutional values, thus the Court concluded that indirectly it was recognizing a part of the personal interview turned around the appellant's religious beliefs and practices, what it was defined as a regrettable confusion.	The Military Chamber of the Supreme Court unanimously agreed with his claim and revoked the two serious sanctions (withdrawal of pay for 15 days and suspension of employment for a month) imposed on a Civil Guard brigade that later were endorsed by the Central Military Court. The Supreme Court declared that those sanctioning administrative decisions infringed his fundamental rights to freedom of expression, defence and the principle of sanctioning legality. The final ruling of the Military Chamber of the Supreme Court denounced the religious freedom was infringed upon him during the interview maintained in the context of an examination to be promoted to captain. Although the Supreme Court recognized that the wording of some of the questions put to it or considerations in the personal interview, were indirectly related to his religious beliefs or practices.	"la desafortunada y reveladora frase del capitán [que le hizo la entrevista] y que hizo constar, entre otros extremos, que el hoy recurrente anteponía su perspectiva étnica (musulmana) a valores institucionales" "the unfortunate and revealing phrase of the captain who leading the interview and which stated, among other issues, that the appellant put his (Muslim) ethnic perspective before the institutional values"	
Finland	2020	Finland / District Court of Oulu / 20104853, 8191378 A copy of the decision can be requested from the District Court of Oulu.	https://oikeus.fi/karjajohtaja/odou/...	Religion	District Court of Oulu (Oulun kärjäloukkuus/Ålborgs tingsrätt)	The defendant, Mr Lokka, had uploaded two videos to his YouTube channel. The speaker in both videos was allegedly a founding member of an anti-immigration party. He spoke in English, but Lokka had created subtitles in Finnish for both videos and had also translated one of the speeches into several different languages. The videos put together had had over 20,000 viewers. The speaker insulted migrants and Muslims by describing them as "brutal", "arrogant", "stupid", "worthless" and "sick". He combined Muslims in general with violent crime and terrorism and said all Muslims should be "kicked out of Finland". Lokka stated that the speaker spoke in the context of demonstrations and described the political agenda of the party he represented. Lokka was not responsible for the content of the speeches. He was just imparting information, as a journalist would do.	The court discussed the concepts of human dignity, prohibition of discrimination, freedom of religion and freedom of expression, as provided for in the Constitution Act and the ECHR. It held that the videos were such as to arouse contempt or even hatred against Muslims and migrants. They violated human dignity and freedom of religion and incited to violence and discrimination. The purpose of the videos was clearly to propagate racist views. Concerning Lokka's claim that the speeches had been given in the context of a political event, the court noted that politicians, when expressing themselves in public, need to avoid comments that are likely to foster intolerance. The court found that Lokka's purpose had not been to objectively impart information on a racist group. By uploading the videos, he had contributed to spreading racist content among the public. This constituted incitement to hatred in the meaning of the Criminal Code.	In protecting freedom of expression, it is important to make a distinction between objective and factual reporting on racist acts, on the one hand, and propagation of racist views and ideas, on the other. A person who distributes racist content online can be held accountable even when that person has not created the said content.	The district court sentenced the defendant to 70 day fines for incitement to hatred. The day fine was then reduced to 61 days (€549), because the defendant had been held in custody for three days during the process.	"Kärjäloukkuus katsoo, että kohtien 1 ja 2 videoiden sisältö on ollut omiaan aiheuttamaan halveksuntaa ja jopa vihaa muslimien kohtaan. Videoiden levityksen tarkoituksena on selkeästi edistää rasististen materiaalien leviämistä. Videot ovat olleet vihapuheita eikä se näin sanomapaadun suojaa. Kyseessä ei ole ollut viiton tiedotusvälikeskusteluun rajoittamista rimmistä. Näin ollen tapaus jätetään soveltuvin tapauksessa. Tiedon välittäjänä Lokka vastaa leviämisenä aineiston sisällöstä. Rikoksvastuu yksilöllistä, Lokka vastaa leviämisenä sisällöstä ja puhuu vastaa omista puheistaan erillisinä vastustajina." "The district court finds that under contents 1 and 2, the content of the videos is such as to arouse contempt or even hatred against Muslims. The videos are distributed clearly with the purpose of propagating racist views. The videos are hate speech, which is not protected by freedom of expression. This case was not concerning a genuine and honest purpose of imparting information on a racist group. Therefore, the case of Jerald is not applicable. Criminal responsibility is individual. Lokka is accountable for the material he has distributed, and the speaker is accountable for his own speech, both as two separate actors."
France	2020	France / Council of State/440757	https://www.legifrance.gouv.fr/etatside...	Religion	Council of State	In a request of 20 May 2020 the Association for the Defence of Human Rights - Collective against Islamophobia in France (ADDFH-COIF) and Ms B. A. asked the judge for summary proceedings of the Council of State to immediately enjoin the Prime Minister to take all necessary measures to allow the exercise of freedom of worship in Muslim religious establishments, throughout the country and in compliance with the necessary health regulations, on the day of Eid al-fitr, on 24 or 25 May 2020, in particular by ordering the suspension of the provisions of Article 8 of Decree no. 2020-548 of 11 May 2020 and Article 10 of Decree no. 2020-548 of 11 May 2020 which banned them, subject to a penalty of €2,000 for each day of delay.	The judge for summary proceedings of the Council of State has already enjoined the Prime Minister to amend the provisions of Ch. III of Article 10 of Decree No. 2020-548 of 11 May 2020, by taking measures strictly proportionate to the health risks incurred and appropriate to the circumstances of time and place applicable at the beginning of "deconfinement" (easing lockdown), to regulate gatherings and meetings in places of worship. Moreover, the French Muslim Council, in communications of 17 and 19 May 2020, reaffirmed its call to Muslims in France to observe the last rights of Ramadan in their homes and stated that given the health situation in the country, the resumption of religious ceremonies in mosques, which must be gradual, cannot take place on the occasion of large gatherings such as Eid or Friday prayer.	Does the holding of gatherings and meetings on the occasion of Muslim holidays constitute a limitation of freedom of worship?	The Council of State rejected the request from the ADDFH-COIF and Ms A.	"4. Pour justifier de l'urgence à ordonner de telles mesures, les requérants soutiennent que, le 24 ou le 25 mai 2020, dot avoir lieu l'une des fêtes les plus importantes de la religion musulmane, qui implique de se rassembler dans les établissements de culte musulman. 5. Toutefois, par une ordonnance n° 440366 et suivants du 18 mai 2020, le juge des référés du Conseil d'État a enjoint au Premier ministre de modifier, dans un délai de huit jours à compter de la notification de cette ordonnance, en application de l'article L. 3131-15 du code de la santé publique, les dispositions du III de l'article 10 du décret n° 2020-548 du 11 mai 2020, en prenant les mesures strictement proportionnées aux risques sanitaires encourus et appropriées aux circonstances de temps et de lieu applicables en ce début de "déconfinement", pour encadrer les rassemblements et réunions dans les établissements de culte. 6. Les requérants n'établissent pas que la concertation requise avec les représentants des principaux cultes qui a justifié le délai précité, alors que des fêtes étaient prévues entre temps pour plusieurs religions, serait susceptible d'être plus courte que huit jours. Par suite et alors, au demeurant, que s'agissant de la fête qu'ils invoquent, le conseil français du culte musulman, dans des communications des 17 et 19 mai 2020, réaffirme son appel aux musulmans de France de veiller les dernières nuits de Ramadan dans nos maisons " puis déclare que " compte tenu de la situation sanitaire de notre pays, la reprise des cérémonies religieuses dans les mosquées, qui doit être progressive, ne peut avoir lieu à l'occasion de grands rassemblements tels que la fête de l'Aïd ou la prière de vendredi " la condition d'urgence particulière requise par l'article L. 512-2 du code de justice administrative n'est pas remplie. 4. In order to justify the urgency to order such measures, the applicants argue that on 24 or 25 May 2020 one of the most important festivities of the Muslim religion which involves gathering in Muslim places of worship must take place. 5. However, by Order No. 440366 et seq. of 18 May 2020, the judge for summary proceedings of the Council of State enjoined the Prime Minister to amend, within eight days of the notification of this Order, pursuant to Article L. 3131-15 of the Public Health Code, the provisions of Ch. III Article 10 of Decree No. 2020-548 of 11 May 2020, by taking measures strictly proportionate to the health risks incurred and appropriate to the circumstances of time and place applicable at the beginning of "deconfinement" (easing lockdown), to regulate gatherings and meetings in places of worship. 6. The applicants have not established that the consultation required with the representatives of the main religious denominations which justified the above-mentioned time-limit, even though celebrations had in the meantime been planned for several religions, was likely to be shorter than eight days. As a result, and as regards the festival to which they refer, the French Muslim Council, in communications of 17 and 19 May 2020, reaffirms its appeal to Muslims in France to observe the last rights of Ramadan in their homes and states that "in view of the health situation in our country the resumption of religious ceremonies in mosques, which must be gradual, cannot take place on the occasion of large gatherings such as Eid or Friday prayer". The special emergency condition required by Article L. 512-2 of the code of administrative justice is not met."
Lithuania	2020	Lithuania / Supreme administrative court of Lithuania / administrative case No. A-181/16/2020	https://e-tesisma.lt/via/190833160196...	Religion	The Supreme Administrative Court of Lithuania (Lietuvos vyriausiosios administracinės teismas)	A convicted person stated that the prison authorities had not provided food according to his religious beliefs. When the pork-based-food is served in the prison canteen, the authorities offered a vegetarian option to the convict. However, the plaintiff stated that he is a Muslim, not a vegetarian, and meat is necessary to diet. The convicted also complained that he was denied his right to a Friday prayer together with other Muslims on several occasions.	The Court stated that the Lithuanian legislation does not require that convicted persons should be provided with the food prepared following Muslim diet. Therefore, if a plaintiff is guaranteed his right to a diet that religiously meets his religious beliefs, it cannot be stated that the person was discriminated. Concerning the fact that the person is times was not allowed to pray with other Muslims on Friday, the Court agreed with the reasoning of the first instance court: 1) once it was a national holiday and, therefore, there were no possibilities to accompany the inmates to the prayer; 2) the group of people, who would express their wish to pray, was not formed. The Court noted that the plaintiff could pray in his own cell.	The court pointed out that the plaintiff is a person with a special legal status - he is serving a sentence in prison - therefore some restrictions of his personal freedoms are unavoidable. Therefore, if the plaintiff is guaranteed his right to a diet that basically meets his religious beliefs, it cannot be stated that the person was discriminated.	Complaint was dismissed and the first instance court ruling was left in power.	"Taigi, pareiškėjų užtikrinus teisę į mitybą, kuri iš esmės atitinka jo religinius įsitikinimus, negali būti konstatuojama, kad pareiškėjas buvo diskriminuojamas." "It is not possible to state that the plaintiff was discriminated against because he is guaranteed his right to a diet that basically meets his religious convictions, it cannot be stated that the plaintiff was discriminated."
Netherlands	2020	Netherlands / Supreme Court (Hoge Raad) (2020), Case no. 19/02742, 17 March 2020, ECLI:NL:HR:2020:381, available at: https://uitspraken.rechtspraak.nl/inzondomeinde=ECLI:NL:HR:2020:381	https://uitspraken.rechtspraak.nl/inzondomeinde=ECLI:NL:HR:2020:381	Religion	Supreme Court (Hoge Raad)	A man insults a hospital clerk who is a Muslim woman and wears a headscarf by making the following statements: "Always those stupid headscarves"; and "Shame on you for wearing a headscarf! You should read the newspaper so you know what's going on in the world." The Court of Appeal sentenced the defendant to a fine of €400.00 on the basis of article 266 of the Dutch Criminal Code. The defendant showed contempt towards others. The words used by the defendant apparently had the intention of damaging her reputation and honour and therefore can be regarded as an insult as referred to in Article 266 of the Criminal Code.	Making statements like "Always those stupid headscarves"; and "Shame on you for wearing a headscarf! You should read the newspaper so you know what's going on in the world." is public to a Muslim wearing a headscarf is a criminal insult under article 266 of the Dutch Criminal Code. The defendant showed contempt towards others. The words used by the defendant apparently had the intention of damaging her reputation and honour and therefore can be regarded as an insult as referred to in Article 266 of the Criminal Code.	The court pointed out that the plaintiff is a person with a special legal status - he is serving a sentence in prison - therefore some restrictions of his personal freedoms are unavoidable. Therefore, if the plaintiff is guaranteed his right to a diet that basically meets his religious beliefs, it cannot be stated that the person was discriminated.	The Supreme Court confirms the judgment of the Court of Appeal in which a man who made insulting statements to a Muslim woman wearing a headscarf was sentenced to a fine of €400.00 on the basis of article 266 of the Dutch Criminal Code which criminalizes insult.	"Met zijn uitlatingen heeft de verdachte ten overstaan van anderen blijk gegeven van minachting jegens aangeefster. Aangeefster heeft verklaard dat zij vernederd en gediscrimineerd voelde. Het hof is van oordeel dat onder deze omstandigheden de door de verdachte gebruikte woorden kennelijk de strakking hadden aangeefster in haar goede naam en eer aan te tasten en daarmee zijn aan merken als belediging als bedoeld in artikel 266 van het Wetboek van Strafrecht. Voor zover de verdachte heeft willen stellen dat de uitlatingen zijn gedaan om het dragen van een hoofddoek te discussie te stellen en in zoverre onderdeel zijn van een publiek debat, overweegt het hof dat de door de verdachte gedane uitlatingen, gelet op de bewoordingen waarin zij zijn gedaan, en gelet op de omstandigheid dat zij zijn gedaan tegen een vrouw met een hoofddoek, zonder meer als beledigend kunnen worden ervaren door degene op wie de uitlating betrekking heeft. Het hof is van oordeel dat de uitlatingen weliswaar zijn gedaan in het openbaar, maar dat de uitlatingen niet zijn gedaan in het kader van het publieke debat of als uiting van artistieke expressie. Immers, de verdachte heeft zelf verklaard dat hij boos was op het slachtoffer omdat zij niet kon vertellen hoe lang het nog zou duren voor zijn vader aan de beurt was en dat hij om die reden de uitlatingen heeft gedaan. Dit betekent dat een nadere toetsing van het hof dan niet omroepende grievende karakter van de uitlating aangeefster kan blijven en het ten laste gelegde als belediging kan worden bewezen verklaard. 5. With his statements, the defendant showed contempt towards others. The victim stated that she felt humiliated and discriminated against. The court is of the opinion that under these circumstances the words used by the defendant apparently had the intention of damaging her reputation and honour and therefore can be regarded as an insult as referred to in Article 266 of the Criminal Code. As far as the defendant wanted to state that the statements were made in order to question the wearing of a headscarf and as far as they are part of a public debate, the court considers that the statements made by the defendant, in view of the wording in which they were made and in view of the circumstances in which they were made against a woman with a headscarf, can be considered as insulting by the victim. The court is of the opinion that although the remarks were made in public, the remarks were not made within the framework of the public debate or as an expression of artistic expression. After all, the defendant himself has stated that he was angry with the victim because she could not tell how long it would take before it was his father's turn and that for this reason he made the statements. This means that a further assessment of whether or not the statement was unnecessarily hurtful can be omitted and the accused can be declared insulting. The Netherlands, Court of Appeal Den Haag (Gerechtshof Den Haag) (2018), Case no. 12-00019-18, 31 October 2018, ECLI:NL:GHDA:2018-3135, https://uitspraken.rechtspraak.nl/inzondomeinde=ECLI:NL:GHDA:2018-3135 . The Netherlands, Supreme Court (Hoge Raad) (2020), Case no. 19/02742, 17 March 2020, ECLI:NL:HR:2020:381, available at: https://uitspraken.rechtspraak.nl/inzondomeinde=ECLI:NL:HR:2020:381
Netherlands	2020	Netherlands / The Netherlands Institute for Human Rights (College voor de Rechten van de Mens) (2020), Opinion 2020-48, 22 June 2020, available at: https://menserechten.nl/inzondomeinde=2020-48	https://menserechten.nl/inzondomeinde=2020-48	Religion	Netherlands Institute for Human Rights (College voor de Rechten van de Mens)	A man wanted to open a business account with Bunq, a bank, for the general partnership of which he is a partner. The activities of the general partnership include the dissemination of Islamic knowledge to every individual in the Netherlands. The bank argued that the reason for the exclusion of religious organisations from a business account lies in legislation regarding the prevention of money laundering and terrorist financing. But the Netherlands Institute for Human Rights is of the opinion that the legislation cited by the defendant neither obliges nor justifies the exclusion of individuals or organisations from a corporate account without further investigation simply on the grounds that they adhere to a religion. The Netherlands Institute for Human Rights decides therefore that with its acceptance policy Bunq discriminates on the ground of religion between organisations without a religious character and organisations with a religious character. Under Dutch Equal Treatment Law a bank may not discriminate on the grounds of religion when offering services, such as a business account.	A bank may not refuse an account to an organisation on ground of the religious character of the organisation in character.	A bank may not discriminate on the ground of religion when offering services such as a business account. With its acceptance policy Bunq makes a direct distinction on the ground of religious character between organisations without a religious character and organisations with a religious character. This is allowed under Dutch Equal Treatment Law.	A bank may not refuse a business account to an organisation because of the religious character of this organisation.	"Het maken van direct onderscheid is verboden, tenzij daarvoor een uitzondering in de wet is opgenomen. Verweerder heeft aangevoerd dat de reden van de uitsluiting van religieuze organisaties van een zakelijke rekening gelegen is in wetgeving ten aanzien van het voorkomen van witwassen en financieren van terrorisme. Het College erkent weliswaar het belang van het voorkomen van witwassen en financieren van terrorisme, maar de door verweerder genoemde wetgeving verplicht noch rechtvaardigt het zonder nader onderzoek uitsluiting van individuen of organisaties van een zakelijke rekening, enkel op grond van het feit dat zij een godsdienst aanhangen of vertegenwoordigen." "Making direct distinction is prohibited, unless an exception is provided for in the law. The defendant has argued that the reason for exclusion of religious organisations from a business account lies in legislation regarding the prevention of money laundering and terrorist financing. While the Institute recognises the importance of preventing money laundering and terrorist financing, the legislation cited by the defendant neither obliges nor justifies the exclusion of individuals or organizations from a corporate account without further investigation simply on the grounds that they adhere to a religion, or represent." "The Netherlands, The Netherlands Institute for Human Rights (College voor de Rechten van de Mens) (2020), Opinion 2020-48, 22 June 2020, available at: https://menserechten.nl/inzondomeinde=2020-48
Romania	2020	Romania / National Council for Combating Discrimination / casefile no. 850/2019 decision 65/2020	http://www.cncd.ro	Religion	National Council for Combating Discrimination (CNCI) (Consiliul National pentru Combaterea Discriminarii)	The plaintiff is serving an 8-year prison sentence. He is Muslim and has no material competence. He is not an Equal Body. He has no material competence in matters related to the regime of execution of prison sentences. CNCI deferred its legal competence towards the judge in charge supervising the deprivation of liberty.	CNCI found that, as an Equal Body, it has no material competence, and the absence of a referral mechanism between the Equal Body and other institutions. In this situation, a judicial authority in charge of supervising the regime of criminal detention.	The case raises a key issue of CNCI's material competence, and the absence of a referral mechanism between the Equal Body and other institutions. In this situation, a judicial authority in charge of supervising the regime of criminal detention.	The complaint was declared inadmissible based on an exception of lack of competence of the institution (CNCI).	"Potrivit prevederilor Legii nr. 254 din 19 Iulie 2013 (...), CNCI (...) nu se poate pronunța sine qua non asupra apelărilor și petițiilor persoanelor condamnate la pedeagă privative de libertate, acceptate pot trimite plângerii către judecătorul de supraveghere a privării de libertate." "According to the provisions of Law no. 254 of July 19, 2013, (...) the Steering Board finds that the complainant does not fall within the competence of the National Council for Combating Discrimination (...). CNCI (...) cannot rule sine qua non on issues concerning persons sentenced to custodial measures of punishment, they can send complaints to the judge supervising deprivation of liberty."

MS	Year	Reference details title	Reference details URL	Hate Blas	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
Lithuania	2020	Lithuania / Lietuvos vyriausiosios administracinės teisėms / A-1437-662/2020	https://ejuoismai.lt/byla/1908311609160...	Religion	Lietuvos vyriausiosios administracinės teisėms (Supreme Administrative Court of Lithuania)	On February 5th, 2019, the applicant appealed against the decision of the Vilnius District Administrative Court, which was unfavorable to him. In his complaint, the applicant sought non-pecuniary damages compensation and claimed that he was discriminated against as a Muslim who adhered to his religious beliefs. He argued that he was not receiving meat other than pork in the prison, especially when other persons such as vegetarians had opportunities for a special diet. He also noted that Muslims serving prison sentences in other Western European countries had more dietary options.	The National Higher Court found that, in accordance with existing legal regulations and court practices related to this particular issue, the applicant's right to adequate food in prison was not violated. The applicant's expectations regarding the variety of dishes were not justified due to his specific legal status (as he is serving a prison sentence); therefore, some restriction of his personal freedoms is inevitable.	One of the key issues was whether the applicant was discriminated against as a Muslim who adhered to his religious beliefs. The National Higher Court stated that the European Court of Human Rights recognizes certain conditions of imprisonment and related restrictions as inherent in a custodial sentence (e.g. K. H. C. vs. United Kingdom on 11 July 1967) and that a custodial sentence always subjects a person's normal life to certain restrictions and controls (e.g. Dickson vs. United Kingdom on 4 December 2007). Thus, after the applicant secured the right to nutrition that corresponds to his religious beliefs, it cannot be established that the applicant was discriminated against.	The Supreme Administrative Court of Lithuania rejected the complaint and left unchanged the decision of the Vilnius District Administrative Court. The Supreme Administrative Court of Lithuania found that the prison has guaranteed complainant's right to food in accordance with his religious beliefs. The ruling was final.	"Lietuvos vyriausiosios administracinio teismo praktikoje šiuo aspektu ne kartą konstatuota, jog nėra pagrindo teigti, kad pareikštas buvo diskriminuojamas, nes byloje nėra duomenų, jog analogiškoje situacijoje esantems kitiems asmenims (musulmonams) buvo užtikrintas maistas pagal valgiaraščių musulmonams (br., pvz., 2020 m. vasario 5 d. nutartį administracinėje byloje Nr. A-237-442/2020 ir kt.)". "In the practice of the Supreme Administrative Court of Lithuania, it has been repeatedly found that there is no basis to claim that the applicant was discriminated against, as there is no data in the case that other individuals (Muslims) in a similar situation were provided with meals according to the Muslim menu (see, for example, the ruling of 5 February 2020 in administrative case No. A-237-442/2020 and others).
Luxembourg	2020	Luxembourg / Court of Appeal / no. 87/20 V.	https://anon-public.lu/D/C/75A/cisions/92...	Migrant status	Court of Appeal (fifth chamber) (Cour d'appel (cinquième chambre))	On 8 September 2015 the Minister of Family and Integration published on Facebook a photo of herself surrounded by Syrian refugees with a comment explaining that a Syrian mother had asked her if her children could attend school in Luxembourg as it was important that her children could have future prospects. Through the BeeSecure platform the police were notified about the following comment underneath the Minister's social media post: "... you should rather explain why our children are repeatedly beaten and robbed by migrant children (sic) or why migrant children are allowed to act publicly in schools with drugs, and the school management does nothing because it is worried about the image of the school or that teachers fear for their lives. You can also explain to us why OGB students are going so badly in EXERCISES (STUDY) Could it be because there are 20 children of foreign origin with a migration background in each class with 25 children?"	The accused claimed that his remarks had not been directed against the children but against government policy. He argued that his comments constituted the expression of his opinion and that he had not exceeded the limits of his fundamental right to freedom of expression. He argued that the moral element of the offense was missing as well, as he had not had the deliberate will to provoke the public to a reaction of hatred by the public towards refugees. The public prosecutor argued that the accused had posted negative comments against a specific group of people, namely, the children of immigrants and, as such, his comments shall not be covered by the right to freedom of expression as set out in Article 10 of the ECHR.	The court held that freedom of expression must not go beyond its limits, thereby endangering the reputation and the rights of others. The remarks of the accused stigmatized and discriminated against a well-defined category of the population, namely, migrants or refugees that Luxembourg had decided to host. The moral element which the offense requires is the fact of wilfully provoking the public to a reaction of hatred or violence towards a person or group or a community. The court argued that the accused's words had certainly been likely to give a disturbing image of the children of refugees or immigrants, and had created a feeling of mistrust, hostility, even hatred towards these migrant groups.	The accused was found guilty of incitement of hatred under Article 457-1 of the Criminal Code. He was sentenced to pay a €750 criminal fine.	"Par ses propos de nature générale P1 a stigmatisé et discriminé une catégorie bien déterminée de la population habitant le Grand-Duché. A savoir les migrants ou réfugiés que le Luxembourg a décidé d'accueillir et qui se trouvent au centre de la crise «migratoire» que connaît l'Europe, et notamment leurs enfants, qui sont opposés aux enfants indigènes." "By his remarks of a general nature, P1 stigmatized and discriminated against a well-defined category of the population living in the Grand Duchy, namely the migrants or refugees that Luxembourg has decided to host, and who are at the centre of the "migratory" crisis that Europe has experienced. This relates in particular their children, who are set in opposition to indigenous children."
Poland	2020	Poland / Regional Court in Wrocław / Judgement of 30 October 2020, case no. III K 202/20	http://orzeczenia.ms.gov.pl/content/5N...	Religion	Regional Court in Wrocław (Sąd Okręgowy we Wrocławiu)	The defendant was accused of having posted a series of offensive comments on a large, public internet discussion board. The comments, made under linked media publications, were targeted at various groups, such as persons of African descent, Muslims, nationals of Arab countries, Latin Americans and members of LGBTIQ community. As regards Muslims, the defendant has stated, among others, that he "wouldn't mind selling European Muslims' body organs" or that "scientific research leads to a right-wing conclusion that Muslims are subhuman".	The court emphasized that the defendant's comments had been made publicly, since the discussion board is available to any internet user. Therefore, in the court's opinion, the defendant's comment approving selling body organs constituted incitement to hatred based on religious affiliation as stipulated under Article 256(1) of the Criminal Code, as it indicates the defendant's reluctance towards Muslims. Moreover, according to the court, by posting a comment referring to Muslims as subhuman, the defendant insulted this group based on their members' religious affiliation.	The court had to examine the case at first instance. No particular issues were clarified by the case.	The court has ascertained the defendant's guilt on all counts and sentenced him to an aggregate penalty of 1 year imprisonment (with conditional suspension). There is no information as regards any appeals filed against the judgement at the Court of Appeal of Wrocław, which indicates that it has become final.	"Przez pojście nawiązywania do nienawistcy i powodów wymienionych w art. 256 k.k. rozumie się bowiem tego typu wypowiedzi, które wzbudzają uczucia silnej niechęci, złości, braku akceptacji, wręcz wrogości do poszczególnej osób lub całych grup społecznych czy wyznaniowych bądź też z uwagą na formę wypowiedzi podtrzymują i nasilają także negatywne nastawienia i podkreślają tym samym uprzywilejowanie, wyższość określonego narodu, grupy etnicznej, rasy lub wyznania (...)." "By the term incitement to hatred based on reasons enised in Article 256 of the Criminal Code one should understand such statements that cause the feeling of strong reluctance, anger, lack of acceptance, almost hostility towards individuals or entire social or religious groups, or - due to the form of expression - maintain or enhance such negative attitudes and emphasise certain nation's, race's, ethnic or religious groups' superiority."
Sweden	2020	Sweden / Supreme Court / Målnummer B 5987-19	https://www.domstol.se/hogsta-domstolen...	Religion	Supreme Court (Högsta domstolen)	The case concerns agitation against a population group (hets mot folkgrupp) online. The defendant was indicted for commenting on a post in a Facebook group called Political facts (Politikfakta) by writing "Disgusting Muslim bastards" (Äckliga muslimfävdor). The Facebook post linked to an article about a man of foreign origin who allegedly had committed an honour-related rape.	The Supreme Court found it established that the defendant, in a comment disseminated via Facebook, had intentionally expressed contempt for a population group or other such group with allusion to religious belief. The Court held that the comment with derogatory content entailed liability for agitation against a population group, even though the comment was directed at a single individual.	The key issue in the case was whether the defendant's offensive statement (i.e. commenting "Disgusting Muslim bastards" on a Facebook post linked to an article about a man of foreign origin who allegedly committed an honour-related rape) formulated as directed against an individual also could be considered to express contempt for a population group or other group resulting in liability for agitation against a population group.	The Supreme Court confirmed the judgement by the Court of Appeal and the defendant was sentenced to agitation against a population group in accordance with the indictment.	"12. Ordalagen i kommentaren sammanfattar med att den gjordes i omedelbar anslutning till artikeln kan inte förstås på annat sätt än att (den tilltalade) menade att mammen brott var direkt kopplat till dennes förmedlade religiösa övertygelse som muslim. Kommentaren förmedlade därmed ett nedslättande budskap om att muslimer i allmänhet är benägna att begå en viss typ av allvariga brott. Även i övrigt gav kommentaren tvivelaktigt uttryck för misaktning av gruppen muslimer (den mening som avses i bestämmelsen om hets mot folkgrupp). "The wording of the comment together with the fact that it was made in immediate connection to the article cannot be understood in any other way than that (the defendant) meant that the man's crime was directly linked to his supposed religious beliefs as a Muslim. The comment thus conveyed a derogatory message that Muslims in general are prone to commit a certain type of serious crime. Even otherwise, the comment undoubtedly expressed contempt for the group Muslims in the sense referred to in the provision on agitation against a population group."

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

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