

Database 2012-2017 on anti-Muslim Hatred

Cases and rulings

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

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COUNTRY(-IES) :

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

YEAR(S) :

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

BIAS MOTIVATION AS DEFINED BY COURT/BODY :

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

COURT/BODY TYPE :

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

CRIME TYPE :

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

MS	Year	Reference details title	Reference details URL	HATE BIAS	Court / Body	KEY FACTS	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Results (sanctions, outcome) and key consequences or implications of the case	Key quotation in original language and translated into English with reference details
	2017	France / Court of cassation / Decision No. 15-87415 ECLI:FR:CASS:2017:CR00492	http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEX T000034337695&fastReqId=1431728072&fastPos	Religion	Court of cassation (Cour de cassation)	Following the publication, on 1 March 2013, on the site www.bvoltaire.com of a text entitled 'What do we do with Muslims once the Koran has been banned?', the public ministry ordered	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	Actions constituting the offence of incitement to discrimination, hatred or violence with regard to a person or of a group of people on grounds of their origin or their	The Court of cassation upheld the ruling of the Court of Appeal convicting the director of publication 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 proscrite la pratique publique de leur religion et expulsés du territoire national ceux qui ne respecteraient pas cette prescription,

Mr.

practice of their religion would be banned and 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 subjected to restrictions or sanctions which constitute, as in this case, measures necessary, in a democratic company, for the protection of public order and the protection of the rights of others.

membership or their non-membership of an ethnic group, a nation, a race or a given religion.

constituait le délit prévu par l'article 24, alinéa 8, devenu l'alinéa 7, de la loi du 29 juillet 1881 et que l'exercice de la liberté d'expression, proclamée par l'article 10 de la CEDH, 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 aimed at Muslims and describing the situation which the author had dreamed of ... a State in which the practice of their religion was prohibited and expelled from the country those who do not respect this rule constitutes the offence provided for in Article 24, paragraph 8, which became paragraph 7, of the Act of 29 July 1881, and that the exercise of freedom of expression, proclaimed by Article 10 of The ECHR, may be subject to restrictions or sanctions which ... constitute necessary

										measures in a democratic society for the protection of public order and the protection of the rights of others.
♦ ■	2017	Malta / Civil Court of Appeal (Inferior) / No. 328/2006 / Norman Lowell v Savior Balzan, Kurt Sansone and Matthew Vella	http://justiceservices.gov.mt/courtservices/Judgments/script_get_judgment_document.aspx?CaseJudgmentID=105712	Ethnic origin	Civil Court of Appeal (Inferior)	The Court of Civil Appeal heard the appeal filed by Mr Norman Lowell who was suing three journalists working for the national newspaper MaltaToday for libel damages. During the night of the 12th and 13th of May 2006, unknown persons set fire to an independent journalist's residential home after she had written a number of articles against Mr Lowell. On that same night, Mr Lowell was holding a barbecue for his right-wing organization very close to where the arson was committed.	The Court of Civil Appeal quoted the ECtHR decision Brosa v Germany (5709/09, 17 April 2014) and held that there is indeed proof that leaves no doubt that Mr Lowell was against migration and migrants. According to the Court of Civil Appeal, any reasonable reader can derive racism, xenophobia and hatred from Mr Lowell's political messages.	The Court of Civil Appeal held that even though Freedom of Speech is a right that belongs to everyone, including politicians and public figures, this does not give them the licence to encourage hostility and violence against any particular group in society- especially such public figures who have widespread influence on society. The term 'neo Nazi' can clearly be elicited from the public political persona of Mr Lowell and his extreme far right remarks.	The Court of Civil Appeal rejected Mr Lowell's appeal and confirmed the first Court's ruling in that the article was not held to be libellous	"Fil-fehma tal-qorti il-kelma neo-Nazi fil-kuntest li ntuzat, hi value judgment." EN: "It is the opinion of the Court that the word neo-Nazi in the context it was used, is a value judgment."

	2017	CJEU - C-157/15 / Judgment / Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV	http://curia.europa.eu/juris/liste.jsf?num=C-157/15	Religion	European Court of Justice	The case concerns G4S' dismissal of S.A. because of her refusal to remove her Islamic headscarf. S.A., a Muslim, was employed by G4S at a time when the company had an unwritten rule that prohibited employees from wearing visible signs of their political, philosophical or religious beliefs in the workplace. Several years later G4S approved the rule. After this, Ms Achbita was dismissed because she refused to comply with the rule not to wear the Islamic headscarf at work.	The Court of Justice found that G4S's internal rule refers to the wearing of visible signs of political, philosophical or religious beliefs and therefore covers any manifestation of such beliefs without distinction. The rule thus treats all employees of the undertaking in the same way, notably by requiring them, generally and without any differentiation, to dress neutrally. It is not evident from the material in the file available to the Court that that internal rule was applied differently to Ms Achbita as compared to other G4S employees. Accordingly, such an internal rule does not introduce a difference of treatment that is directly based on religion or belief, for the purposes of the directive.	The concept of a blanket ban on religious clothing does not constitute direct discrimination, however, it could constitute indirect discrimination if it puts members of a certain religion at a particular disadvantage unless it is justified by a legitimate aim that is appropriate and necessary.	The Court therefore found that there was no direct discrimination, whilst emphasising that the national court hearing the case has sole jurisdiction to determine whether, and to what extent, the internal rules meet the criteria of the directive.	Article 2(2)(a) 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 prohibition on wearing an Islamic headscarf, which arises from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination based on religion or belief within the meaning of that directive.
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	<p>2017</p>	<p>CJEU - C-188/15 / Judgment / Asma Bougnaoui v. Micropole SA</p>	<p>http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d69bb1836e281341ab9941e888b7f56eff.e34KaxiLc3qMb40Rch0SaxYMbx90?text=&docid=188853&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=237614</p>	<p>Religion</p>	<p>Court of Justice (Grand Chamber)</p>	<p>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.</p>	<p>According to the Court, it is only in very limited circumstances that a characteristic related, in particular, to religion may constitute a genuine and determining occupational requirement. Such a characteristic may constitute such a requirement only 'by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out'. Consequently, 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.</p>	<p>The concept of a 'genuine and determining occupational requirement', within the meaning of that provision, refers 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.</p>	<p>The Court ruled that Article 4(1) 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.</p>	<p>"Consequently, the answer to the question put by the referring court is that Article 4(1) 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."</p>
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	2017	Slovakia / Supreme Court of the Slovak Republic	http://www.supcourt.gov.sk/data/att/63490_subor.pdf	Religion	The Supreme Court of the Slovak Republic (Najvyšší súd Slovenskej Republiky)	<p>The defendant was accused of making a publicly available video where she publicly threatened a group of persons with death and grave injury or other harm based on their religion. She was also accused of incitement to hatred and public defamation against a group of persons by making extremist materials.</p>	<p>Since the case of the Supreme Court of The Slovak Republic involves mainly the question of defendant's custody and annulment of the court order for preparatory proceedings, there is no further argumentation outside the scope of the key facts of the case.</p> <p>The case of the lower court - Specialized Criminal Court, since being in a form of preparatory proceedings is not anonymized, and therefore not publicly available.</p>	N/A	<p>Only relates to custody, which was replaced by probation.</p> <p>Note: Since the defendant violated the conditions of her probation, she was sent to prison in April 2017.</p>	N/A
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	2017	Slovakia / Supreme Court of the Slovak Republic	http://www.supcourt.gov.sk/data/att/63195_subor.pdf	Race , Ethnic origin	The Supreme Court of the Slovak Republic (Najvyšší súd Slovenskej Republiky)	<p>The defendant in this case was accused of attacking a French citizen of migrant origin , constituting a criminal offence of damage on health with a specific racially-biased motive. The racial motivation of the attack was also considered by reference to additional evidence - by "liking" the Facebook page of a certain group. The Supreme Court revoked the decision of the lower court for lack of evidence.</p>	<p>The Supreme Court examined the formal and material conditions of the imprisonment and concluded there is a low intensity of reasonability and merits of the suspicion of a crime, absence of evidence for a specific motive - a racial motive. The Supreme Court therefore ordered defendant's release from prison.</p>	<p>"liking" of a Facebook page as evidence for race-biased motivation: The Specialized Criminal Court argued that by liking a Facebook page, the defendant showed sympathy towards groups that do not respect the values of liberal democracy, which plays a substantial role in assessing the crimes with specific motives. The Supreme Court countered by telling there is no possibility to ascertain the accused liked the page, or the motivation for liking the page.</p>	<p>The accused was found guilty of a criminal offence of damage on health, with a specific motive (Hatred to a group of persons or an individual for their actual or alleged membership to any race, nation, nationality, ethnic group, their true or presumed origin, color, sexual orientation, political belief or religion) according to Art. 156/1,2/b and Art. 140/e of the Criminal Code and riotous conduct (Art. 364/1/a, 2/a and art. 140/e). The accused was sentenced to prison by a Specialized Criminal Court in February 2017. The Supreme Court revoked the decision and released the defendant in March 2017.</p>	<p>"Lajknutie samo osebe, bez neprípustnej a účelovo-špekulatívnej doplňujúcej úvahy a výkladu sudcu, nezakladá ani dôvodné podozrenie z naplnenia formálneho znaku „osobitný motív z rasovej nenávisťi“ podľa § 140 písm. e) Tr. zák."</p> <p>"Liking alone, without an inadmissible and purpose-speculative supplementary consideration and the interpretation of the judge does not establish a reasonable suspicion that fulfill formal sign of a 'special motive of racial hatred' according to § 140 let. e) of the Criminal Code."</p>
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	2017	Austria / Supreme Court / 14 Os 9/17f ECLI:AT:OGH0002:2017:0140 OS00009.17F.0228.000 Austria: Regional Court (Landesgericht), Ried/20 Hv 33/16k	https://www.ris.bka.gv.at/Dokumentwxe?Abfrage=Justiz&Dokumentnummer=JJT_20170228_OGH0002_01400S00009_17F0000_000	Nationality	Supreme Court (Oberster Gerichtshof)	The case concerns online incitement to hatred and violence. The defendant posted the following on Facebook [roughly translated:] "No sending back. You can open Mauthausen[,] having a little showering or dragging rocks at the death stairs[,] there are some fine things one can do there @ lowlives" and "Negro = target[,] we could shoot them a little with softguns © haha".	The Constitutional Court has found that the defendant has failed to provide any reasons for nullity (repealing the lower court's judgement and ordering a reconsideration of the case by a lower court).	The key issue is about deciding upon whether there are any significant reasons for nullity.	Appeal for nullity has been dismissed. The case has been sent back to the Higher Regional Court Linz in order to get to a decision regarding the sentence.	The present case does not provide for any significant key quotation.
	2017	Latvia / Tukums District Court / Case No. 11390001416		Nationality	Tukums District Court (Tukuma rajona tiesa)	The defendant posted public calls to violence and threats towards migrants on his Facebook profile. Initially, the defendant called to violence against migrants at a specific address in town. Later he engaged in discussions	The defendant pleaded guilty to incitement to hatred (against migrants) and agreed for the case to be reviewed without the examination of the evidence. The Court established that it was proven that the actions committed by the defendant are aimed at the incitement to hatred due to a person's social status.	The Court found the defendant guilty of incitement to hatred due to a person's social status (being a migrant). As the defendant pleaded guilty, there were no concepts or interpretations clarified by the case.	The defendant found was guilty and sentenced to 160 hours of community service.	(Tiesa atzīst, ka kriminālprocesā iegūtas pietiekošas ziņas par faktiem, kas izslēdz saprātīgas šaubas un apliecina, ka apsūdzētais /pers. A/ veica darbības, kas ir vērstas uz nauda un nesaticības izraisīšanu atkarībā no personas sociālā statusa (tas ir citu pazīmju dēļ), kas saistītas ar vardarbību un

with other social network users by posting two more comments containing threats and an indication of being prepared to use violence against migrants.

draudiem, tādēļ tiesa kvalificē apsūdzētā /pers. A/ darbības pēc Krimināllikuma 150.panta trešās daļas.)

The Court agrees that information acquired during criminal procedure is sufficient in order to exclude reasonable doubts and confirm that the actions committed by the defendant /person A/ are aimed at incitement of hatred and enmity depending on person's social status (on any characteristics), that is related to violence and threats, therefore, the Court qualifies defendant's /person A/ actions according to Section 150 Paragraph 3 of the Criminal Law."

	<p>2017</p>	<p>Spain / Social Courthouse: Palma de Mallorca / No. 31/2017</p>	<p>https://www.iberley.es/jurisprudencia/sentencia-social-n-31-2017-iso-palma-mallorca-sec-1-rec-478-2016-06-02-2017-47703786</p>	<p>Religion, Gender</p>	<p>Social Court house: Palma de Mallorca</p>	<p>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.</p>	<p>The use of the hijab is a manifestation of religious belief of the employee. The ban was based on a purely aesthetic requirement. The company's manual about the dress code was not provided to the Committee members. Therefore the company did not provide to have in place any relevant rule restricting the use of symbols religious.</p>	<p>Violation of the fundamental right to religious freedom recognized under the Article 16 of the Spanish Constitution</p> <p>It was not comparable to the use of mere adornments to the use of the veil.</p> <p>Related to discrimination by gender at employment</p>	<p>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 449,142 euros and the payment of a compensation for the damages caused calculated in 7.892 euros.</p>	<p>(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)</p> <p>"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"</p>
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+	2017	Finland / District Court of Espoo / R 16/249		Ethnic origin	The District Court of Espoo (Espoon kärjäoikeus / Esbo tingsrätt)	The victim was attacked by three men while walking on the street in the city of Espoo. These men were unknown to the victim. The men were shouting racist insults at the victim. The victim was targeted because of his dark skin colour. The three men were convicted of assault.	The court considered that the victim's account of the events is credible and that all three men had participated in assaulting and chasing the victim. They all had shouted racist insults at him. The court concluded that the crime had a racist motive for which an aggravated penalty must be applied.	Applying of aggravated penalty due to racist motive	A was sentenced to 70 day fines (420 euros) B was sentenced to 60 day fines (420 euros) C was sentenced to 70 day fines (630 euros)	"Vastaajat eivät ole tunteneet [A:ta]. Rassistiset solvaukset ovat alkaneet heti, kun he ovat nähneet [A:n]. Esiin ei ole tullut, että [A] olisi millään tavalla provosoinut vastaajia. [...] Vastaajat eivät ole osanneet kertoa teollleen muuta motiivia kuin sen, että [A] on ollut tummaihoisen ulkomaalainen." "The defendants did not know [A] beforehand. The racist insults had begun immediately after the defendants had seen [A]. Nothing suggests that [A] had in any way provoked the defendants. [...] The defendants have not given any other motive to their actions than [A] being a dark-skinned foreigner. "
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