

## Database 2012-2020 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.

Filter the database by

**COUNTRY(-IES) :**

Luxembourg

**YEAR(S) :**

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

**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
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	2012	Luxembourg / Court of and in the Luxembourg arrondissement (12th chamber) / No. 31604/10/CD		Nationality	The Court of and in the Luxembourg arrondissement, 12th chamber (Le Tribunal d'arrondissement de et à Luxembourg, douzième chambre)	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.	
	2013	Luxembourg / District Court of Luxembourg	<a href="http://justice.public.lu/fr/ac/judic/2013/">http://justice.public.lu/fr/ac/judic/2013/</a>	Religion, Ethnicity	Luxembourg District Court	This case differs from	The four authors of the comments, who admit to	Broad interpretation made of Article 457-1 of	Three of the defendants were	"En ce qui concerne

		<p>Court / Case no. 577/2013 / Judgement / The Public Prosecutor v. A, B, C, D</p>	<p><a href="https://www.tribunaux.lu/judgements/2013/02/jugement-incitation-haine/index.html?highlight=haine">tuantes/2013/02/jugement-incitation-haine/index.html?highlight=haine</a></p>	<p>Ethnic origin</p>	<p>District Court (Tribunal d'arrondissement)</p>	<p>the general case law regarding incitement to hatred. The case concerns a defendant with a link to the extreme right movement who deliberately created a fake alias on a social media platform, pretending to be a foreigner attacking Luxembourg. He published threats and hate comments against Luxembourgish people, nation and language, with the aim to provoke a negative reaction and to incite hatred against foreigners and migrants.</p>	<p>having written the messages, are accused of having disseminated, by the use of a mobile phone, written messages inciting hatred against specific groups or communities, based on their real or perceived belonging, to an ethnic group, a nation or a given religion.</p>	<p>the Criminal Code, which covers racist and xenophobe comments.</p>	<p>convicted to 6 months suspended prison sentences, while one of the defendants was convicted to 6 months in prison.</p>	<p>l'élément matériel, il y a lieu de retenir que les propos reprochés aux prévenus B, C, D et A ont été publiés sur la page Facebook du professionnel de la presse RTL Group, de sorte qu'il y a eu mise en circulation sur le territoire luxembourgeois et transition sur le territoire luxembourgeois de différents textes contenant des propos discriminatoires. {...} Quant à C {...} il fait référence à la deuxième guerre mondiale avec l'idée, qui ne lui déplairait d'ailleurs pas {...} de débarrasser le pays des personnes de nationalités étrangères, à savoir des demandeurs d'asile, et de celles appartenant à une autre religion, les musulmans, faisant</p>
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explicitement  
référence aux  
actions  
entreprises par  
Hitler {...} pour «  
débarasser »  
l'Allemagne des  
juifs pendant la  
2ième guerre  
mondiale {...}  
Il ne fait donc pas  
de doute que le  
contenu de ces  
propos, mis dans  
le contexte de la  
deuxième guerre  
mondiale, est  
susceptible  
d'inciter à la  
haine raciale et à  
la violence contre  
ces personnes  
alors qu'C expose  
entre autre que le  
Luxembourg sera  
occupé dans un  
proche avenir par  
les demandeurs  
d'asile et des  
musulmans."

"As regards the  
material element,  
it should be noted  
that the  
allegations against  
accused B, C, D  
and A were  
published on the  
Facebook page of  
the RTL Group  
press, so that  
texts containing  
discriminatory



remarks were circulated on the territory of Luxembourg. {...} As for C {...}, he refers to the Second World War with the idea, which would not displease him [...] to rid the country of people of foreign nationalities, Namely asylum seekers, and those belonging to another religion, Muslims, making explicit reference to the actions undertaken by Hitler to "rid" Germany of the Jews during the Second World War. {...} There is no doubt, therefore, that the content of these remarks, put in the context of the Second World War, is likely to incite racial hatred and violence against these persons, since C states, inter alia, that Luxembourg will

										be occupied in the near future by asylum seekers and Muslims."
	2013	Luxembourg / Court of and in the Luxembourg arrondissement, court of first instance (16th chamber) / no. 17461/12/CD		Nationality, Ethnic origin	The Court of and in the Luxembourg arrondissement, court of first instance 16th chamber (Le Tribunal d'arrondissement de et à Luxembourg, seizième chambre corrective)	When RTL announced on its website that the Kehlen local authority would build a house for refugees, this led to a racial outburst on Facebook by Mrs G., Mr H., Mr I. And Mrs J. claiming that 'they' received everything and 'we' received nothing, even wishing the return of a Hitler-like persona, who would cleanse the country.	The law criminalises racism, revisionism and other agitations based on illegal discrimination. The criminal code qualifies as discrimination every distinction made between people due to their origin, their skin colour, their sex, their sexual orientation, their health, their handicap, their traditions, their political or philosophical opinions, their union activities, their real or supposed ethnic origin, a nation, a race or a religion.	No new interpretations or explanations.	Mrs J., Mrs G. and Mr H. were sentenced to 6 months imprisonment on probation, in the event of new breaches, 6 months will be added to this penalty. Mr I was sentenced to 6 months imprisonment.	
	2015	Luxembourg / District Court (13th Chamber) / Case no. 1448/2015 / Judgment / The Public Prosecutor v.		Nationality, Ethnic origin	Luxembourg District Court (Tribunal d'arrondissement)	This case differs from the more "typical" case law regarding incitement to hatred, in that it concerns a defendant	The defendant was accused of disseminating, through the social media platform Facebook, hate speech against non-Luxembourgish persons living in Luxembourg, by pretending to be a	The Court held that in order to determine whether a comment constitutes incitement to hatred, it must be analysed whether or not such a feeling (i.e. hatred) can be conceived in the minds	The defendant was convicted to a 12 months suspended prison sentence.	"en se faisant passer pour un non-Luxembourgeois qui publierait sur le réseau social électronique facebook des commentaires


		X				<p>with links to the extreme right who deliberately created a fake alias on a social media platform pretending to be a foreigner attacking Luxembourg. He published threats and hate comments against the Luxembourgish people, nation and language, with the aim of provoking a negative reaction and inciting hatred against foreigners and migrants.</p>	<p>foreigner attacking Luxembourg and its people. The Court argued that the defendant, through his comments, sought to provoke a racist reaction against foreigners.</p>	<p>of people from reading the written text. To do so, the text as a whole must be taken into consideration, each sentence of which is part of the broader text. The Court held that, read together, the comments posted by the defendant had clearly incited to hatred against persons on the basis of their non-belonging to the Luxembourgish nation.</p>		<p>absolument abjectes à l'adresse de tous les Luxembourgeois, dans le but exclusif de provoquer un sentiment de haine auprès des ressortissants luxembourgeois à l'égard de la communauté étrangère installée au Grand-Duché, prétendument raciste envers ses hôtes, P.1.) a incité à la haine à l'égard de personnes en raison de leur non-appartenance à la nation luxembourgeoise. "</p> <p>"by pretending to be a non-Luxembourgish national who would publish absolutely abject comments on the social network Facebook addressed to the Luxembourgish people as a whole, with the sole aim of</p>
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	2016	Luxembourg / Court of Appeal (5th Chamber), Case no. 596/16 V / Judgement / The Public Prosecutor v. A.		Religion, Ethnic origin	Luxembourg Court of Appeal (Cour d'appel)	Between October and November 2015, the accused distributed flyers in several municipalities in Luxembourg containing hate speech messages inciting to hatred against foreigners living in Luxembourg. Migrants in general, and Muslims in particular, were accused of destroying the country and its natural resources, negatively affecting Luxembourgish citizens' rights and living conditions.	The accused argued that he was acting in accordance with the law, in particular within the framework of the right to freedom of opinion and expression as set forth by Article 10 of the European Convention on Human Rights (ECHR). Furthermore, he claimed that his accusations were directed against the Luxembourgish authorities and their policies, and not against migrants. The court (both in first instance and in the court of appeal) dismissed his arguments and held that the messages distributed on the flyers were clearly directed against migrants in general, and against the Muslim community in particular, and consequently violated article 457-1 of the Criminal Code (incitement to hatred or violence).	Broad interpretation made of Article 457-1 of the Criminal Code, which covers racist and xenophobic comments. Both the court of first instance and the court of appeal do not consider Article 10 of the ECHR, regarding freedom of expression, to have been breached.	The accused was convicted in the Court of first instance (judgment 1579/2016 of 26 May 2016) and sentenced to eight months of prison. The accused then appealed the decision and the Court of appeal transformed the sentence into a 7000 euro fine.	"Les propos de A sont assurément de nature à donner une image inquiétante de la communauté musulmane dans son ensemble, ainsi que de la population étrangère en général, et à susciter, particulièrement parmi le public le moins averti, un sentiment de rejet, d'antagonisme et d'hostilité."  "A's remarks are certainly likely to draw a disturbing picture of the Muslim community as a whole, as well as of the migrant population in general, and to arouse, particularly among the less informed public, a feeling of rejection, antagonism, and hostility."
	2017	Luxembourg / Court of Cassation /	<a href="https://justice.public.lu/content/dam/justi">https://justice.public.lu/content/dam/justi</a>	Religion, Ethnic	Court of Cassation	Between October and	The accused argued that he was acting in	Broad interpretation made of Article 457-1 of	The accused was convicted by the	"Les propos de X sont assurément

	<p>Case no. 58/2017 (3868)</p>	<p><a href="https://www.courdecassation.fr/jurisprudence/cour-cassation/penal/2017/10/3868/PENAL20171026_3868a-58.pdf">ce/fr/jurisprudence/cour-cassation/penal/2017/10/3868/PENAL20171026_3868a-58.pdf</a></p>	<p>origin</p>	<p>n (Cour de Cassation)</p>	<p>November 2015, the accused distributed flyers in several municipalities in Luxembourg containing hate speech messages inciting to hatred against foreigners living in Luxembourg. Migrants in general, and Muslims in particular, were accused of destroying the country and its natural resources, negatively affecting Luxembourgish citizens' rights and living conditions.</p>	<p>accordance with the law, in particular within the framework of the right to freedom of opinion and expression as set forth by Article 10 of the European Convention on Human Rights (ECHR). Furthermore, he claimed that his accusations were directed against the Luxembourgish government's immigration policies, and not against migrants. The courts (i.e. first instance, court of appeal and court of cassation) dismissed his arguments and held that the messages distributed on the flyers were clearly directed against migrants in general, and against the Muslim community in particular, and consequently violated article 457-1 of the Criminal Code (incitement to hatred or violence).</p>	<p>the Criminal Code, which covers racist and xenophobe comments. All three instances confirmed that the conviction of the accused for violation of article 457-1 of the Criminal Code (incitement to hatred or violence) had not been in breach of the accused's fundamental right to freedom of expression as set forth by Article 10 of the ECHR.</p>	<p>Court of first instance (judgment 1579/2016 of 26 May 2016) and sentenced to eight months of prison. The accused then appealed the decision and the Court of appeal transformed the sentence into a 7000 euros fine (judgment no. 596/16 V of 6 December 2016). The judgment was then upheld by the Court of Cassation.</p>	<p>de nature à donner une image inquiétante de la communauté musulmane dans son ensemble, ainsi que de la population étrangère en général, et à susciter, particulièrement parmi le public le moins averti, un sentiment de rejet, d'antagonisme et d'hostilité. Travesti sous l'apparence d'une critique politique du gouvernement, qui rentrerait dans l'exercice de la liberté d'expression, le pamphlet, pris dans son intégralité, contient en dehors de cette critique également des propos stigmatisant les étrangers, [...]."</p> <p>"The words of X are certainly likely to give a disturbing picture of the Muslim community as a</p>
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										whole, as well as of the foreign population in general, and to arouse, particularly among the least informed public, a sense of rejection and antagonism and hostility. Under the guise of a political criticism of the government, which would fall within the exercise of the freedom of expression, the pamphlet, taken in its entirety, contains besides this criticism also remarks stigmatizing the foreigners, [...]."
	2017	Luxembourg / District Court (16th Chamber) / Case no. 3257/2017		Religion, Migrant status	Luxembourg District Court (Tribunal d'arrondissement)	In September 2015, violent comments were posted about two articles concerning the refugee crisis that have been shared on the Facebook page of Radio Latina, a	In the course of the police investigation all defendants claimed that they might have misrepresented themselves and that they had nothing against refugees in general, but they were rather against the terrorists. The court, however, held that all five defendants had violated article 457-1 of the Criminal Code	The court clarified that even though two of the defendants had actually resided in France when posting the relevant comments, the Criminal Court of Luxembourg had been still competent to hear their case since Article 457-1 of the Penal Code provides for the criminalization of acts that have partially taken place abroad.	All five defendants were convicted to one-year suspended imprisonment.	"[...] que l'article 457-1 3) a été introduit pour « tenir compte de certains comportements d'organisations racistes internationales qui tentent de profiter des lacunes législatives de certains Etats, en

Portuguese-speaking radio station in Luxembourg. One was about an NGO worker being outraged by the comments of incitement to hatred on Facebook. The other was about Differdange, a city in Luxembourg, being open to welcome up to 60 refugees. On these articles, a number of people expressed their opinions:

(incitement to hatred or violence).

faisant parvenir leur matériel à connotation raciste à un public déterminé, en échappant à l'incrimination prévue par les différentes législations nationales [...]. [...], il a fallu recourir à un libellé très vaste de ce texte permettant d'atteindre le résultat voulu, c'est-à-dire l'incrimination des faits en question, même s'ils ne se déroulent que partiellement sur le territoire luxembourgeois."

"[...] that Article 457-1 3) was introduced to "take into account certain behaviors of international racist organizations which attempt to take advantage of the legislative shortcomings of certain States, by sending their racist material to


										a particular public, by escaping the criminalization provided for by different national laws [...]. [...] it was necessary to resort to a very broad wording of this text to achieve the desired result, that is to say the incrimination of the facts in question, even if they only take place partially on Luxembourg territory."
	2017	Luxembourg / Court of Appeal (10th Chamber) / Case no. 304/17		Migrant status	Luxembourg Court of Appeal (Cour d'appel)	On 14 October 2015 the accused, via his social media profile, commented on an article from a newspaper about a former military site (Ordensburg Vogelsang). The article said that "In this ex-Nazi-Ordensburg, Cologne will bring 900 refugees to Germany"	Public Prosecutor argued that the use of the term "Gesindel" by the accused was to target refugees. The term "Gesindel" (a word with a very pejorative meaning, referring to "garbage people") referred to a group of people, in this case refugees, certainly has a negative connotation and therefore it can constitute incitement to hatred. At the same time, the defense of the accused invoked freedom of expression and freedom of opinion, relying on Article 10 of the ECHR.	In order to find a violation of article 457-1 of the Criminal Code, both the material and the moral elements of the crime must be established. The Court of first instance argued that in the absence of other elements calling for the stigmatization of refugees, the accused's comment had not had a sense of hostility or rejection and had concluded that the material element of incitement to hatred was therefore not established. The Court of appeal then argued that the remarks made	The Court of first instance acquitted the accused. The Court of appeal upheld the judgment.	(of the summary of the judgment provided by the Legal Documentation Service) "Cependant, les propos tenus ne sont pas de nature à créer dans l'esprit de celui qui les conçoit un choc incitatif à la discrimination, à la haine ou à la violence. [...] La Cour considère également quant à l'élément moral de l'infraction d'incitation à la

and "In Cologne refugees are to be accommodated in the area of the former National Socialist Ordensburg.

by the accused were not likely to create in the mind of the person who conceives them shock, hatred or violence. Concerning the moral element, it further argued that it had not been established that the accused deliberately intended to provoke the public and thereby triggering a reaction of hate or violence against refugees.

haine qu'il n'est pas établi que A ait voulu de façon délibérée provoquer dans l'esprit du public une réaction de discrimination de haine ou de violence à l'égard des réfugiés, respectivement qu'il aurait dû entrevoir que ces propos pourraient avoir un tel effet."

"However, the remarks made are not likely to create in the mind of the person who conceives them an incentive shock to discrimination, hatred or violence. [...] The Court also considers as to the mental element of the offense of incitement "to hatred that it has not been established that A deliberately intended to provoke in the mind of the public a reaction

										of hate discrimination or of violence against refugees, respectively, that he should have foreseen that such remarks could have such an effect."
	2017	Luxembourg / District Court (Correctional Chamber) / Case no. 2065/2017		Religion	Luxembourg District Court (Tribunal d'arrondissement)	An anonymous reporting on 22 September 2016 through the Bee Secure Stopline platform has made the police authorities aware of a comment posted by the defendant via her Facebook account. The comment was made in respect of an article that related to a German railway agent who had been insulted and threatened of being thrown off the train by some illegal	The accused explained that she had not taken the time reading the article on which she commented, but in the majority of cases the perpetrators of such crimes reported by the media are people of Muslim origin, so she had assumed that this had been the case again. Her intention was to express her contempt for the perpetrators without directly targeting their religion. The court, however, held that the commentary of the defendant had targeted implicitly but necessarily the Muslims. Further, the defendant used extremely pejorative terms when describing her target ("mentally impaired animals") and desired aggression against them, thus violated article 457-1 of the Criminal Code (incitement to hatred or	The court clarified that the comment "pedo-Prophet" implicitly but necessarily referred to Mohamed Prophet and thus the defendant targeted the group of people belonging to the Muslim religion. Further, the court emphasized that it was not necessary that the comment in question contain a call to hatred, violence or discrimination. For the offense to be constituted, it is sufficient for the comments to be such as to arouse those feelings.	The defendant was convicted, she was sentenced to payment of EUR 500 criminal fine.	"Le commentaire de la prévenue vise implicitement mais nécessairement les musulmans puisqu'il est fait référence au prophète Mohamed (« de pedo-Prophet »). La prévenue a dès lors visé des personnes qui en raison de leur appartenance à une communauté se distinguent par leur religion. [...] En l'espèce l'auteur du commentaire [...] insinue gratuitement qu'il doit nécessairement s'agir de musulmans et attend avec impatience le jour où ils se heurteront à


passengers  
during a  
check of  
tickets.

violence).

quelqu'un qui  
aura recours à la  
violence à leur  
égard. Il va de soi  
que ces propos  
incitent à la haine  
et à la violence  
contre les  
musulmans [...]."

"The  
commentary of  
the defendant  
aims implicitly  
but necessarily  
the Muslims since  
it refers to the  
prophet  
Mohamed  
("pedo-Prohet").  
The defendant  
has therefore  
targeted persons  
who because of  
their membership  
of a community  
are distinguished  
by their religion.  
[...] In this case  
the author of the  
commentary [...] suggests that it  
must necessarily  
be Muslims and  
looks forward to  
the day when  
they will  
encounter  
someone who  
will resort to  
violence against  
them. It goes  
without saying  
that these words



											incite to hatred and violence against Muslims [...]."
	2019	Luxembourg / Administrative Court of Luxembourg (3rd Chamber) / Case no. 40948	<a href="http://www.ja.etat.lu/40001_45000/40948.pdf">http://www.ja.etat.lu/40001_45000/40948.pdf</a>	Religion	Administrative Court (Tribunal Administratif du Grand-Duché de Luxembourg)	A Luxembourgish citizen of Muslim religion 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 45/35 cm passport type photo on which her head is uncovered.	On the merits, the applicant argued that she was a Luxembourgish citizen of Muslim faith who, as such, covered her hair with a veil/hijab. Her face remains uncovered. Her hair is an element of her intimacy. Thus, having to dispose her hair on a photo that is not private is inconceivable. For her, this constitutes a violation of her privacy and private life, let alone, her freedom to practice her religious 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 an infringement 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	



reflect the views or the official position of the FRA. As of June 2019 information from the UK will no longer be updated.

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

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