

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Germany	2020	Germany / Higher Regional Court of Munich (Oberlandesgericht München) / 18 U 1491/19Prs	https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2020-N-2103?hl=true&AspxAutoDetectCookieSupport=1	Migrant status	Higher Regional Court of Munich (Oberlandesgericht München)	The plaintiff sought the recovery of two posts on a social media profile which had been deleted by the defendant, namely Facebook. In the first post in question the plaintiff had, among others, written: "THEIR majority are criminal invaders, raping and murdering in Germany but still being protected as victims of 'right wing agitation'". The second post, quoting the Hungarian prime minister Viktor Orbán, called refugees "Muslim Invaders". Facebook lodged an appeal against the decision of a regional court that had found the deletion of both posts illegal.	Facebook's appeal was partially successful. Whereas the court qualified the first post not only as hate speech but even as sedition, it held that the post quoting Viktor Orbán is protected by the freedom of expression and had, thus, to be recovered.	The Court ruled that the statements made by the first post in question are to be considered as hate speech and constitutes a sedition. As consequence, the deletion of this post was legitimate. In contrast, the deletion of the second post in question was illegitimate, as the statement was covered by the fundamental right of the freedom of expression, as it only constitutes a harsh formulated critique about the refugee crisis which concerns an important question raised by the public.	The Court had to decide whether the statements in question were deleted by Facebook on legitimate grounds.	"Mit diesem Aussagegehalt kann der vom Kläger eingestellte Beitrag nicht als direkter Angriff auf Personen wegen ihrer Rasse, Ethnizität, nationalen Herkunft und religiösen Zugehörigkeit im Sinne der Gemeinschaftsstandards der Beklagten gewertet werden. Entscheidend ist, dass in dem Zitat die tatsächliche Grundlage der von Orbán verwendeten Metapher „Invasoren“ - nämlich das massenhafte illegale Überschreiten der Grenze durch die Flüchtlinge - offen gelegt und damit einer eigenständigen wertenden Überprüfung durch den Leser zugänglich gemacht wird." "Given its content the post uploaded by the plaintiff cannot be considered as direct attack on persons on the ground of their race, ethnicity, national origin and religious belonging in the sense of the defendant's Community Standards. The key reason is that the factual basis of the metaphor "invaders" - namely the illegal border crossing by refugees in huge numbers - as used by Orbán, was disclosed by the quote and therefor made accessible to readers for their independent assessment."

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