

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
France	2013	France / Court of cassation / Decision No. 12-84790 ECLI:FR:CCASS:2013:CR03515	http://www.legifrance.gouv.fr/affichurjudi.do?oldAction=rechJurJudi&idTexte=JURITEXT0000277007895&astReleid=15834634246&astPos=2	Racial or ethnic origin	Court of cassation (Cour de cassation)	On 20 September 2009, Mr. Z. and Mr. A. committed a violent assault on Mr. X, leading to his incapacity to work for over eight days. The investigating judge, after having charged the perpetrators with the offence of aggravated violence, in particular because of the membership of Mr. X. of a particular race, finally ordered them to be sent before the criminal court without retaining the aggravating circumstance. Mr. X. appealed this decision. The pre-trial chamber of the Toulouse Court of Appeal upheld their charges and committal to trial.	The Court of cassation overturned the ruling of the Court of Appeal and sent the case and the parties before the investigation chamber of the Montpellier Court of Appeal.	The aggravating circumstance is committed when the offence is preceded, accompanied by or followed by words, writing, images, objects or acts of any nature which cause injury to the character or of a group of people which the victim is part because of their membership or of their non-membership, real or supposed, to a nation, a race or a religion. As the ruling of the Court of Appeal, after having recognised that Mr. Z. and Mr. A. used racist insults at the time of the violence committed, stated that the aggravating circumstance should not have been retained in the absence of sufficient objective evidence to show that the victim suffered violence due to the colour of his skin, the Court of Appeal misinterpreted the law, since it had noted the existence of racist remarks made by the accused before and during the assault.	The conditions for the aggravating circumstance: when the offence is preceded, accompanied by words, writing, images, objects or acts of any nature which cause injury to the character or refer to the victim or of a group of people which the victim is part because of their membership, real or supposed, to a ethnic group, a nation, a race or a religion.	Il résulte de la combinaison de ces textes que la circonstance aggravante visée au 5° bis de l'article 222-12 du code pénal est constituée lorsque l'infraction est précédée, accompagnée ou suivie de propos, écrits, images, objets ou actes de toute nature portant atteinte à l'honneur ou à la considération de la victime ou d'un groupe de personnes dont fait partie la victime à raison de leur appartenance ou de leur non-appartenance, vraie ou supposée, à une ethnie, une nation, une race ou une religion déterminée. "It follows from the combination of these laws that the aggravating circumstance referred to in subparagraph 5b of Article 222-12 of the Criminal Code is committed when the offence is preceded, accompanied by or followed by words, writing, images, objects or acts of any nature which cause injury to the character or refer to the victim or of a group of people which the victim is part because of their membership or of their non-membership, real or supposed, to a ethnic group, a nation, a race or a religion."

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