

## 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 |
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| France       | 2016 | <a href="#">France / Court of cassation / Decision No. 15-25.873</a><br><a href="#">ECLI:FR:CCASS:2016:C101245</a> | <a href="https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/1245_9_35468.html">https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/1245_9_35468.html</a> | Racial or ethnic origin | Court of cassation (Cour de cassation) | Pursuant to the requests of the public prosecutor, the police services carried out an identity check on Mr. X, which led to no legal or administrative proceedings. Citing failings of the public justice service resulting in the discriminatory nature of the identity check on grounds of his origin, his physical appearance or his membership of an ethnic group, Mr. X. filed legal proceedings against the State legal authority claiming compensation for non-material damages. The Paris Court of Appeal ordered the State legal authority to pay Mr. X the sum of €1,500 euros in compensation for non-material damages. | The appeal of the State legal authority was rejected, the ruling of the Court of Appeal according to which it was ordered to pay €1,500 to Mr. X. as compensation for non-material damages, remained in force. | An identity check is discriminatory in nature if it is carried out according to criteria drawn from physical characteristics associated with origin, real or supposed, without any prior justified objectives. It falls upon those who claim to be a victim to provide evidence demonstrating a difference in treatment leading to discrimination, and, if necessary, it falls upon the administration to show either the absence of a difference in treatment, or that such treatment is justified by objective elements devoid of any discrimination. As such, elements were provided which were likely to result in a difference in treatment leaving one to suppose the existence of discrimination. | Elements constituent of a discriminatory identity check.     | "La faute lourde résultant de l'inaptitude du service public de la justice à remplir la mission dont il est investi doit être regardée comme constituée lorsqu'il est établi qu'un contrôle d'identité présente un caractère discriminatoire ; que tel est le cas, notamment, d'un contrôle d'identité réalisé selon des critères tirés de caractéristiques physiques associées à une origine, réelle ou supposée, sans aucune justification objective préalable. Il appartient à celui qui s'en prétend victime d'apporter des éléments de fait de nature à traduire une différence de traitement laissant présumer l'existence d'une discrimination, et, le cas échéant, à l'administration de démontrer, soit l'absence de différence de traitement, soit que celle-ci est justifiée par des éléments objectifs étrangers à toute discrimination." "Serious misconduct resulting from the inability of the public justice service to fulfil the role it has must be regarded as constituted when it is established that an identity check presents discriminatory characteristics; that such is the case, in particular, of an identity check, carried out according to criteria drawn from physical characteristics associated with origin, real or supposed, without any prior justified objectives. It falls upon those who claim to be a victim to provide evidence demonstrating a difference in treatment leading to suppose the existence of discrimination, and, if necessary, it falls upon the administration to show either the absence of a difference in treatment, or that such is justified by objective elements devoid of any discrimination." |

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