

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	2024	France / Conseil d'Etat / N°492743 / ECLI:FR:CEORD:2024:492743.20240320	http://www.conseil-etat.fr/fr/decisions/CEdecision/2024-03-29/492743	Religion	Conseil d'Etat	The case related to the withdrawal of a residence permit and deportation of a Tunisian national on the grounds of explicit and deliberate incitement to discrimination, hatred or violence against a specific person or group of people, and harm to the fundamental interests of the State, constituted by a deliberate and particularly serious violation of the principles of the Republic.	The Council of State (Conseil d'Etat) upheld the expulsion.	The Council of State (Conseil d'Etat) pointed out that the grounds for the expulsion order state that the incriminating remarks explicitly and deliberately discriminated against women, non-Muslims, Muslims belonging to currents other than Salafism, incited hatred towards Jews, or advocated holy war and Islamic law, and deduced that the person involved had demonstrated behaviour that explicitly and deliberately incited discrimination, hatred or violence. In view of their public nature, the position of their author, their impact (preaching at the mosque) and their distribution on social media, such comments constituted explicit and deliberate incitement to discrimination, hatred or violence towards groups of people. Article L. 631-3 of the French code governing the entry and residence of foreign nationals and the right of asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile) stipulates that a foreigner who has been legally resident in France for more than twenty years can only be expelled for behaviour that is particularly serious enough to justify their permanent removal from French territory, even though they have strong ties there. However, according to the Council of State (Conseil d'Etat), in this case, these actions constituted particularly serious behaviour.	The question was whether the withdrawal of the residence permit and deportation were consistent with the right to lead a normal family life. This question was closely associated with the nature of the respondent's behaviour, and therefore to the question of whether their comments were discriminatory and likely to constitute hate speech.	"7. En l'état de l'instruction, les seuls propos publics qui lui sont reprochés, à l'exclusion de tout autre acte ou agissement, ne peuvent pas être regardés comme constituant un comportement de nature à porter atteinte aux intérêts fondamentaux de l'Etat. En revanche, certains des propos tenus en public par l'intéressé, dans le cadre de prêches ayant eu une certaine audience, peuvent être tenus comme constituant des actes de provocation explicite et délibérée à la discrimination envers les femmes, s'agissant des propos relatifs à la vie sociale et au comportement des femmes comme de l'attitude que les hommes devraient avoir à leur égard, ou comme des actes de provocation à la haine ou à la violence contre des groupes de personnes, s'agissant, dans le contexte international actuel, des propos relatifs aux juifs ainsi que ceux critiquant la société française et valorisant la guerre sainte. Si M. B... conteste la portée et le caractère de provocation explicite des propos en cause, reposant sur l'utilisation de textes religieux et prononcés dans le cadre de prédications religieuses, le caractère abusif de tels propos comme le cadre dans lequel ils ont été tenus ne sont, par eux-mêmes, pas de nature à faire obstacle à ce qu'ils puissent être qualifiés de provocation explicite à la haine ou à la violence envers un groupe de personnes. En l'espèce, et en l'état de l'instruction, certains des propos retenus par l'arrêté contesté apparaissent constituer, compte tenu de leur caractère public, de la position de leur auteur et de l'impact qu'ils ont pu avoir du fait de leur audience lors des prêches à la mosquée et de leur diffusion sur les réseaux sociaux, des actes de provocation explicite et délibérée à la discrimination, à la haine ou à la violence envers des groupes de personnes susceptibles ainsi de fonder l'expulsion de l'intéressé sur le fondement de cet article." "7. In the current state of the investigation, the only public statements of which they were accused, to the exclusion of any other act or behaviour, could not be considered as constituting behaviour likely to undermine the fundamental interests of the State. However, some of the comments made in public by the person involved, in the context of preaching which has had a certain audience, could be considered as constituting acts of explicit and deliberate provocation to discrimination against women, in the case of comments relating to the social life and behaviour of women as well as the attitude that men should have towards them, or as acts of provocation to hatred or violence against groups of people. In the case, in the current international context, of comments relating to Jews as well as those criticizing French society and promoting holy war. While Mr B... contested the scope and explicit provocative nature of the remarks in question, which were based on the use of religious texts and made in the context of religious preaching, the allusive nature of such remarks and the context in which they were made were not in themselves such as to prevent them from being qualified as explicit provocation to hatred or violence against a group of people. In this case, and given the state of the investigation, some of the statements contained in the contested order appeared to constitute, given their public nature, the position of their author and the impact they may have had due to their being heard during preaching at the mosque and their dissemination on social media, acts of explicit and deliberate incitement to discrimination, hatred or violence against groups of people, thereby justifying the expulsion of the person involved on the basis of this article."

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