

SUPPLEMENTARY MATERIAL

HISTORICAL INSTITUTIONALISM AND JUDICIAL DECISION-MAKING
Ideas, Institutions, and Actors in French High Court Hate Speech Rulings

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Appendix A. Court of Cassation Substantive Hate Speech Cases

Date	Case Number	Hate Speech Target	Court of Cass'n Restricts Hate Speech	Court of Cass'n Quashes Prior Decision	Appeal by Accused Speaker	Anti-Racist Group Involved	Public Prosecutor Involved	Party Control	ECHR Article 10 Invoked
1976									
04 12	74-92515	minority	yes	no	yes	major*	no	right	no
1978									
11 20	75-92333	minority	yes	no	yes	major	no	right	no
1980									
03 03	78-91949	minority	no	no	no	major	no	right	no
1983									
06 28	Non publié au bulletin	minority	yes	no	yes	major	no	left	no
1983									
06 28	82-92904	minority	yes	no	yes	major	no	left	no
1983									
10 11	Non publié au bulletin	minority	yes	yes	no	major	no	left	no
1986									
05 06	84-90788	minority	yes	no	yes	major	no	left	no
1987									
07 03	86-93434	other	no	no	no	major	yes	mixed	no
1987									
11 04	84-90888	minority	no	no	no	major	no	mixed	no
1988									
01 26	84-94795	minority	yes	no	yes	major	no	mixed	no
1988									
01 26	83-93164	minority	yes	yes	no	major	yes	mixed	no
1988									
02 16	84-93501	minority	yes	no	yes	none	no	mixed	no
1989									
03 11	85-94319	minority	yes	yes	no	major	yes	left	no
1989									
10 24	88-80793	minority	yes	no	yes	none	no	left	no
1990									
01 23	88-84981	minority	yes	no	yes	none	no	left	no
1990									
01 30	88-86549	minority	yes	yes	no	major	yes	left	no
1991									
01 08	80-92844	minority	yes	no	yes	major	no	left	no
1991									
06 11	90-84257	minority	no	no	no	major	no	left	no
1991									
11 08	90-83336	minority	yes	no	yes	none	no	left	no
1991									
12 03	90-83605	minority	yes	no	yes	major	no	left	no
1992									
01 28	91-81778	minority	no	no	no	major	yes	left	no
1992									
07 16	91-86156	minority	yes	no	yes	major	no	left	no
1993									
01 05	91-81526	minority	no	no	no	major	no	left	no

1993	03 02	91-84653	majority	yes	yes	no	AGRIF	no	left	no
1993	06 08	89-83298	minority	no	yes	yes	major	no	mixed	no
1993	12 07	92-81094	majority	yes	yes	no	AGRIF	no	mixed	no
1993	12 07	92-84439	majority	no	no	no	AGRIF	no	mixed	no
1993	12 07	92-81091	majority	no	no	no	AGRIF	no	mixed	no
1994	01 18	91-86228	minority	no	no	no	major	yes	mixed	no
1994	05 17	91-82129	minority	no	no	no	other	no	mixed	no
1994	05 26	92-81796	minority	yes	no	yes	major	no	mixed	no
1995	01 05	93-80752	minority	yes	yes	no	major	no	mixed	no
1995	03 22	93-12119	majority	no	no	no	AGRIF	no	mixed	no
1995	06 27	93-82552	minority	yes	no	yes	major	no	right	no
1995	10 03	94-80064	majority	yes	no	yes	AGRIF	no	right	no
1996	02 28	93-20663	majority	yes	yes	no	AGRIF	no	right	no
1996	05 21	94-83365	minority	yes	no	yes	none	yes	right	no
1997	06 24	95-81187	other	yes	no	yes	major	no	mixed	no
1997	10 21	96-80391	majority	yes	yes	no	AGRIF	no	mixed	no
1997	11 18	95-83743	minority	yes	no	yes	none	no	mixed	no
1997	11 27	96-81661	minority	yes	no	yes	major	no	mixed	no
1998	01 15	96-82192	minority	yes	no	yes	none	yes	mixed	yes
1998	01 29	96-84851	minority	yes	no	yes	major	no	mixed	no
1998	02 10	96-84890	majority	no	no	no	AGRIF	no	mixed	no
1998	02 17	96-85567	minority	yes	yes	no	major	no	mixed	no
1998	03 10	95-85691	majority	no	no	no	AGRIF	yes	mixed	no
1998	04 24	95-85958	majority	yes	yes	no	none	no	mixed	no
1998	04 28	96-81655	majority	no	no	no	AGRIF	no	mixed	no
1998	05 19	95-85296	minority	yes	no	yes	major	no	mixed	no
1998	11 24	97-81507	minority	yes	no	yes	major	no	mixed	yes
1999	05 27	98-82495	minority	yes	no	yes	none	no	mixed	no

1999	06 08	98-83461	majority	no	no	no	AGRIF	no	mixed	no
1999	09 07	98-85177	minority	yes	no	yes	major	no	mixed	no
1999	09 21	98-85157	minority	yes	no	yes	none	no	mixed	no
1999	10 05	97-85708	minority	yes	no	yes	none	no	mixed	no
1999	12 14	98-87529	other	no	no	no	none	no	mixed	yes
2000	06 14	99-80043	majority	yes	no	yes	none	no	mixed	yes
2000	01 25	99-81814	other	no	no	no	none	no	mixed	no
2000	01 25	98-87278	minority	yes	no	yes	none	no	mixed	no
2000	09 12	98-88203	minority	yes	no	yes	none	no	mixed	yes
2000	09 12	99-82281	other	no	yes	yes	other	no	mixed	yes
2000	09 21	98-88201	minority	yes	no	yes	major	no	mixed	yes
2001	03 08	98-17574	majority	no	no	no	AGRIF	no	mixed	yes
2001	04 16	99-10490	majority	no	no	no	AGRIF	no	mixed	no
2001	11 13	01-80510	other	yes	no	yes	major	no	mixed	yes
2002	03 05	01-82785	other	no	no	no	other	no	mixed	yes
2002	05 14	01-85482	minority	yes	no	yes	major	yes	mixed	yes
2002	06 25	01-86026	minority	yes	no	yes	none	yes	right	no
2002	12 03	01-86088	other	no	no	no	none	no	right	no
2003	03 25	02-82288	majority	no	no	no	AGRIF	yes	right	no
2003	05 06	02-81587	minority	yes	no	yes	major	no	right	yes
2004	01 06	02-87803	minority	yes	no	yes	major	yes	right	no
2004	03 16	03-82828	minority	no	no	no	other	no	right	yes
2004	03 30	03-83528	minority	yes	no	yes	none	no	right	no
2004	09 28	03-87450	minority	yes	no	yes	none	no	right	yes
2005	03 15	04-84463	minority	yes	yes	no	major	no	right	yes
2005	04 12	04-82507	minority	no	no	no	major	yes	right	yes
2005	09 27	05-80123	other	no	no	no	none	no	right	no
2006	02 14	05-81932	majority	no	yes	yes	AGRIF	yes	right	yes

2006										
07 12	05-17704	minority	no	yes	yes	none	yes	right	yes	
2006	05-15822									
11 14	05-16001	majority	no	yes	yes	other	yes	right	yes	
2007										
01 23	06-85329	majority	no	no	no	AGRIF	no	right	no	
2007										
02 16	06-81785	minority	yes	yes	no	other	yes	right	no	
2007										
04 03	05-85885	minority	no	no	no	major	no	right	yes	
2007										
05 02	06-84710	majority	no	no	no	AGRIF	no	right	yes	
2007										
05 30	06-84328	minority	no	no	no	major	yes	right	yes	
2007										
09 11	07-80783	minority	yes	no	yes	major	no	right	yes	
2009										
02 03	08-85220	majority	no	no	no	AGRIF	no	right	no	
2009	06-83063									
02 03	08-82402	minority	yes	no	yes	major	no	right	yes	
2009										
03 31	07-86892	other	no	no	no	other	no	right	yes	
2009										
03 31	07-88021	other	no	no	no	major	no	right	yes	
2009										
06 23	08-85651	other	no	yes	yes	other	no	right	yes	
2010										
03 30	09-86330	other	yes	no	yes	none	no	right	no	
2010										
06 22	10-82337	minority	yes	no	yes	none	no	right	no	
2011										
01 04	10-83428	minority	yes	no	yes	none	no	right	yes	
2011										
03 01	10-83267	majority	no	yes	yes	none	yes	right	no	
2011										
03 15	10-82809	majority	no	no	no	AGRIF	no	right	no	
2011										
06 07	10-85179	other	no	no	no	none	yes	right	yes	
2011										
11 08	09-88007	minority	no	no	no	major	yes	right	yes	
2011										
11 22	10-81771	majority	no	no	no	AGRIF	no	right	no	
2012										
02 14	11-81953	minority	yes	no	yes	none	no	right	yes	
2012										
05 22	10-88315	minority	yes	no	yes	none	yes	mixed	yes	
2012										
10 16	11-82866	minority	yes	no	yes	major	no	left	yes	

* “Major” means involvement by one or more of the four most prominent antiracist groups that have consistently pursued antiracism cases: the Ligue des Droits de l’Homme; the LICRA; the MRAP; and SOS-Racisme.

Appendix B. Interview Methods Table: Hate Speech and France’s Court of Cassation*

Interviewee	Status	Source	Format	Length	Recording Method	Summary
Category 1: Anti-Racist Associations; Saturation: High						
LICRA activist Charlotte Lefranc	1) Phone interview 9/26/14; 2) Interview 17/11/14; 3) Phone interview 6/23/15 4) Email questions 6/26/15 and 9/1/15; response 9/5/15	Sample frame; referred by scholar Slama	1) Semi-structured 2) Informal 3), 4) Structured follow ups on single point	1) 40 mins 2) Aprx 15 mins 3) Aprx 15 mins	1), 3) Concurrent notes & immediate supplementary notes 2) Notes taken directly after the conversation	QDR
AGRIF president Bernard Antony	Phone interview 9/29/14	Sample frame	Semi-structured	30 mins	Concurrent notes & immediate supplementary notes	QDR
AGRIF commun-ications director Vivien Hoch	Interview 6/9/15	Referred by AGRIF president Antony	Semi-structured	85 mins	Audio recording and concurrent notes	No response to request for permission
MRAP activist	Email request sent 9/29/14; follow up inquiry on 6/26/15; response on 9/5/15 indicated no one available	Sample frame				
LDH activist Isabelle Denise	1) Phone interview 10/13/14 2) Phone interview 6/23/15	Sample frame	1) Semi-structured 2) Structured follow up on single point	1) 40 mins 2) aprx 30 mins	Concurrent notes & immediate supplementary notes	QDR


Category 2:
Judges;
Saturation:
High

Court of Cassation judge Jean-Yves Monfort	1) Interview 11/18/14 2) Interview 12/16/14 3) Interview 2/17/15	Sample frame; referred by scholar Hervieu	Semi-structured	1) 30 mins 2) 90 mins 3) 60 mins	Concurrent notes & immediate supplementary notes	QDR
Court of Cassation former judge and Constitutional Council member Guy Canivet	Interview 11/18/14	Sample frame; referred by scholar Stone	Semi-structured	60 mins	Concurrent notes & immediate supplementary notes	No response to request for permission
Former Council of State member Olivier Dutheillet de Lamothe	Interview 12/16/14	Referred by scholar Stone	Informal	90 mins	No notes	Permission not sought
Paris Appellate Court judge	No response after several attempts; declined to pursue further as at least one Court of Cassation judge was former Appellate Court judge	Sample frame				
Paris Press Tribunal presiding judge Fabienne Siredey-Garnier	Interview 6/8/15	Referred by Category 3 judge Ronsin	Semi-structured	60 mins	Audio recording and concurrent notes	QDR
Paris Press Tribunal former presiding judge Marc Bailly	Interview 5/18/15	Referred by Category 3 judge Ronsin	Semi-structured	60 mins	Concurrent notes & immediate supplementary notes	QDR
Judge and legal scholar Denis Salas	Interview 2/17/15	Referred by Le Monde legal affairs journalist Johannès	Semi-structured	60 mins	Concurrent notes & immediate supplementary notes	QDR
Representative from the	No interview	Suggested by AGRIF				

Syndicat de la Magistrature	sought, given high level of saturation	President Antony & scholar Boigeol				
Category 3: Experts on training of and influences on Judges; Saturation: High						
Scholar Anne Boigeol	Interview 10/17/2014	Based on published work; referred by scholar Vanneuville	Semi-structured	40 mins	Concurrent notes & immediate supplementary notes	QDR
Ecole Nationale de la Magistrature (ENM) director Xavier Ronsin	Interview 3/12/15	Sample frame; importance noted by Boigeol	Semi-structured	105 mins	Concurrent notes & immediate supplementary notes	QDR
ENM member and legal scholar Antoine Garapon	Interview 11/18/14	Relevance suggested by Boigeol	Semi-structured	30 mins	Concurrent notes & immediate supplementary notes	QDR
Justice Ministry bureaucrat	Not sought given high saturation	Sample frame				
Category 4: Lawyers; Saturation: High						
Public prosecutor involved in racism cases Annabelle Philippe	Interview 5/19/15	Sample frame	Semi-structured	60 mins	Concurrent notes & immediate supplementary notes	QDR
High ranking public prosecutor Jean Quintard	Interview 12/15/14	Sample frame	Semi-structured	Aprx 60 mins	Concurrent notes & immediate supplementary notes	QDR
Lawyer Matthieu Henon; has worked with mainstream antiracist associations	Interview 11/18/14	Sample frame, referred by Hervieu	Semi-structured	60 mins	Concurrent notes & immediate supplementary notes	QDR

MRAP and
LICRA

Lawyer Gérard Taieb who works with mainstream antiracist association MRAP	Multiple email contacts between 11/6/14 and 6/3/15; agreed to interview, but could not find time to schedule interview	Sample frame				
AGRIF lawyer Jérôme Triomphe	Phone interview 12/24/14	Referred by AGRIF president Antony	Semi-structured	Aprx 60 mins	Concurrent notes & immediate supplementary notes	Awaiting permission subject to transcript review by interviewee
French government-appointed lawyer Agnès Douvreur	Interview 11/18/14	Referred by Défenseur des Droits specialist Latraverse	Semi-structured	Aprx 40 mins	Concurrent notes & immediate supplementary notes	QDR
Category 5: Experts on French Law; Saturation: Medium						
Scholar Expert Alec Stone Sweet	Interview 10/10/14	Known from scholarship	Semi-structured	90 mins	Notes taken directly after the conversation	QDR
Scholar Expert Pascal Mbongo	Interview 10/9/14	Known from scholarship	Informal	75 mins	Concurrent notes & immediate supplementary notes	No response to request for permission
Le Monde legal affairs journalist Franck Johannès	Interview 11/17/2014	Referred by scholar Hervieu	Semi-structured	Approx 45 mins	Concurrent notes & immediate supplementary notes	QDR
Scholar/expert on Court of Cassation Pascale Deumier	Interview 3/26/15	Referred by scholar Girard	Informal	45 mins	Notes taken the following day	Confidentiality requested
Category 6: Experts on Racism in France; Saturation: Low						

Scholar Expert Daniel Sabbagh	Interview 10/10/14	Known from scholarship	Informal	Not noted	Notes taken after the conversation	Permission not sought
Government Agency (Défenseur des Droits) specialist Sophie Latraverse	Interview 10/10/14	Known from prior research	Informal	60 mins	Concurrent notes & immediate supplementary notes	QDR
Category 7: Judicial Actors active in Court of Cassation in 1990s; Saturation: Low-Medium						
Former Court of Cassation Judge	No contact information found					
Former Court of Cassation Judge	Emailed 1/19/15 & 2/2/15; no reply	Referred by current Court of Cassation judge				
1990s Court de Cassation judge A	Email 4/29/14; agreed to interview 5/4/15; declined interview 5/28/15	Referred by current Court of Cassation judge				
1990s Court de Cassation Judge B	Interview 6/9/15 (concurrent with 1990s Adjunct Prosecutor)	Referred by current Court of Cassation judge	Semi-structured	95 mins	Concurrent notes & immediate supplementary notes	Confidential
 1990s Adjunct Prosecutor in the Press Tribunal	Interview 6/9/15 (concurrent with 1990s Court of Cassation judge B)	Referred by current Court of Cassation judge	Semi-structured	95 mins	Concurrent notes & immediate supplementary notes	Confidential
Overall Saturation: High						

*This table is based on a structure developed in Bleich, Erik, and Robert Pekkanen. 2013. "How to Report Interview Data." In Layna Mosley, ed., *Interview Research in Political Science*. Ithaca: Cornell University Press. Summaries are archived in the Qualitative Data Repository (QDR) at the Maxwell School of Citizenship and Public Affairs, Syracuse University, "Hate Speech and France's Court of Cassation," Project ID: 10083.