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BELGIUM: A criminal case against Jehovah's Witnesses in Gent

Human Rights Without Frontiers will follow this trial starting on 16 February

By Willy Fautré, Human Rights Without Frontiers (*)

HRWF (16.02.2021) – On 16 February, a trial will start against the Christian Congregation of Jehovah's Witnesses (CCJW) at

the criminal court of Ghent (East Flanders) on the alleged grounds of discrimination and incitement to hatred with a particular focus on their disfellowshipping (exclusion) procedure.

A timeline

2015 (19 March): The criminal investigation began with the filing of a criminal complaint by Patrick Haeck, a former Jehovah's Witness who had freely chosen to recant his faith.

2016 (5 January): Substitute Public Prosecutor Isabel de Tandt transmitted the criminal file to the Federal Judicial Police. She stated in her cover letter that this is "a file against the Jehovah's Witnesses regarding defamation and, more specifically, regarding their defamation policy."

2016 (29 February): In a Pro-Justicia, the Federal Judicial Police listed the CCJW and its Board of Directors as the subject of the criminal investigation.

2018 (10 April): The Public Prosecutor officially notified the CCJW of the investigation that had been ongoing since January 2016. Three CCJW board members were then invited for a hearing.

2018 (15 May): The CCJW responded to that invitation by a letter to the Federal Judicial Police of East Flanders in which it requested a number of details about the criminal investigation: the grounds of the accusation and the author thereof. In its letter, the CCJW specifically addressed the issue of disfellowshipping and stressed that courts in Liège, Mons and Brussels have confirmed this practice is protected under Article 9 of the European Convention on Human Rights.

In that letter, the CCJW indicated its objections to the

investigation (due to the little information provided by the police) and asked the Public Prosecutor to dismiss this investigation but indicated "Of course, we are fully prepared to work with you to clarify this issue". There was no response whatsoever to this offer.

2020 (13 May): After two years of silence by the judicial authorities, the CCJW received a copy of the 11 May 2020 summons charging it with crimes under Article 22 of the Anti-Discrimination Act.

In total, the criminal investigation lasted 4 years and 4 months, from 5 January 2016 until 11 May 2020. However, no investigation measures whatsoever took place between 15 May 2018 and 11 May 2020, a period of nearly two years.

This case is thus similar to *Rouille v. France*, no. 50268/99, § 29, 6 January 2004, where the ECtHR held that "an investigation lasting five years and two months" exceeded the reasonable time requirement and thus violated Article 6(1) of the Convention.

The main issue is however the questionable assimilation of the internal disfellowshipping procedure to some form of incitement to hatred and discrimination.

All organized religions have exclusion or excommunication procedures in their statutes and Jehovah's Witnesses are not an exception. For them, this is a fundamental religious belief required by the Bible. In this regard, they often quote a number of verses from the New Testament, such as

1 Corinthians 5:6, 11-13: "Do you not know that a little leaven ferments the whole batch of dough? ... But now I am writing you to **stop keeping company with anyone called a brother who is sexually immoral or a greedy person or an idolater or a reviler or a drunkard or an extortioner, not**

even eating with such a man. For what do I have to do with judging those outside? Do you not judge those inside, while God judges those outside? **Remove the wicked person from among yourselves.**”

2 John 1:9-11: “Everyone who pushes ahead and does not remain in the teaching of the Christ does not have God. The one who does remain in this teaching is the one who has both the Father and the Son. If anyone comes to you and does not bring this teaching, **do not receive him into your homes or say a greeting to him.** For the one who says a greeting to him is a sharer in his wicked works.” (Emphasis added)

Courts in Belgium have already ruled on similar complaints of alleged discrimination.

On 10 January 2012, the Court of Appeal of Mons rejected J.L.’s discrimination claim, concluding that

“The fact that a religious movement lays down for its members and publishes in its periodicals **rules of conduct to be adopted vis-a-vis former members who have been properly excluded** (the propriety of the said exclusion is not under discussion here), which are limited to the prohibition on associating with them, speaking to them or even greeting them, **is not sufficient to lead to the presumption that any discrimination exists.**

“Provided the limits of legality are not exceeded, **any person is free to follow or otherwise the precepts of the religion of his choice, including with regard to the members of his own family.** (Emphasis added)

On 5 November 2018, the Court of Appeal of Brussels rejected J.L.’s remaining civil claims, concluding:

“Of course, moral pressures may be exerted on followers so that they distance themselves from “excommunicated” persons. However, as emphasized by the Court of Appeal of Mons in its aforementioned ruling, **all individuals are free to decide whether or not to follow the precepts of the religion of their choice, including with regard to their own family.**

...

There is no exhibit that reveals that any members of his family or friends refused to see him after his excommunication **because of the instructions of the [religious community]**. Nor is there any evidence that he lost customers for that reason.” (Emphasis added)

Last but not least, on 7 February 2019, the Court of Cassation rejected J.L.’s appeal against the judgment of the Court of Appeal of Brussels.

(*) The original article was published by Bitter Winter on 15 February 2021 under the title “Jehovah’s Witnesses Disfellowshipping Practices on Trial in Belgium”

Picture: Seat of the Christian Congregation of Jehovah’s Witnesses in Kraainem, in the periphery of Brussels.

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