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# **BELGIUM found by the European Court guilty of tax discrimination against the Jehovah's Witnesses**

**European Court of Human Rights:  
Belgium found guilty of tax  
discrimination against the  
Jehovah's Witnesses**

*Granting exemptions from property taxes to "recognized religions" only is not permissible, the Strasbourg judges*

*said.*

By Massimo Introvigne

Bitter Winter (11.04.2022) – <https://bit.ly/30dn9wm> – With a surprisingly quick decision compared to its usual standards, considering that the application was filed on May 14, 2020, the European Court of Human Rights (ECHR) decided on April 5, 2022, that the Jehovah's Witnesses are discriminated by new rules on religion-based exemptions from the property tax adopted by the Brussels Region in 2017, which limit the exemption to state-recognized religions.

Since 2001, in Belgium property tax exemptions are regulated by regional laws. Just as the other regions, Brussels granted an exemption to places of worship and other properties used by religious organizations for religious, educational, or charitable purposes. It was never cast in doubt that the exemption applied to the Kingdom Hall properties of the Jehovah's Witnesses.

In 2017, however, the Brussels Region expressed a concern that the religion-based exemption might be used for tax fraud. In fact, as the ECHR observed, in the discussion on amending the law no specific cases of tax fraud were mentioned. The ECHR also noted that on June 19, 2017, the State Council warned the Brussels Region of the possible discriminatory effects of the proposed new legislation, which might cause problems both with the Belgian Constitution and the European Convention on Human Rights.

Nonetheless, on November 23, 2017, the law was amended restricting the property tax exemption to nationally "recognized religions" only, which in Belgium meant, and means, a small club including Roman Catholicism, Protestantism (insofar as Protestant churches are part of the recognized national organization), Anglicanism, Judaism, and Islam.

In 2018, the six congregations of the Jehovah's Witnesses in the Brussels Region, which had thus lost the property tax exemption and had to pay significant taxes, appealed to the Belgian Constitutional Court, which on December 14, 2019, found in favor of the Brussels Region. The Jehovah's Witnesses then went to the ECHR.

The ECHR noted that it was not contested that the taxed buildings were used by the Jehovah's Witnesses for religious purposes, nor that the law introduced a discrimination between registered and unregistered religions. The ECHR stated that, according to its case law, states are free to grant or not to grant certain tax exemptions based on religion; if they do, however, they should treat all religions equally and in a non-discriminatory way.

The question before the court was, thus, whether the requirement that a religion be registered does create a discrimination prohibited by articles 9, on freedom of religion and belief, and 14, on non-discrimination of the European Convention on Human Rights. The core of the Belgian government's defense argued that there was no discrimination since any religion is free to apply for national registration. The ECHR examined whether the Belgian registration process offers the necessary guarantees of non-discrimination mandated by article 14. It concluded that it does not.

The ECHR observed that the criteria for recognition are vague, and not even included in a law or regulation. Soliciting the recognition is a decision by the Minister of Justice, and granting it is a political act of the Parliament. "Neither the criteria for recognition, nor the procedure by which a religion can be recognized by the federal authorities, are set forth in statutes that meet the requirements of accessibility and predictability inherent in the concept of the rule of law."

"The examination of an application for recognition, the ECHR

added, is not accompanied by any guarantee, either with respect to the adoption of the decision on such an application, or to the process leading up to a decision, or the appeal that may be made against it at a later stage." The European judges also observed that there is no delay within which an application should be considered. The representative organization of Belgian Buddhists sought registration in 2006, and the corresponding Hindu body in 2013. They have received no recognition to this date.

The ECHR suspects, not without reasons, that the non-recognition may be based on a value judgment about certain religions. The decision does not explicitly mention the discrimination of some religions as "cults" ("sectes," in French) but quotes the 2011 decision "Association of the Jehovah's Witnesses v. France," which found France had used taxes to discriminate against religious organizations it had listed as "cults (sectes)," including the Jehovah's Witnesses. Quoting that decision, the ECHR observed that "in its relationship with the various religions, faiths, and beliefs, the State must be neutral and impartial," and that in general the right to freedom of religion or belief "excludes any assessment by the State of the legitimacy of religious beliefs or the manner in which they are expressed."

Another defense by Belgium, that in practice the amount of the property tax to be paid was minimal, was also rejected by the ECHR. The European judges concluded that, on the contrary, the amount of the property taxes the Brussels congregations of the Jehovah's Witnesses are requested to pay "is not insignificant, and significantly affects the functioning of the applicants as religious communities." It may also be mentioned that, if unchallenged, the Brussels Region law might have influenced the adoption of similar discriminatory statutes in the other Belgian regions.

As a consequence, the ECHR ruled that the 2017 amendments to its tax laws by the Brussels Region excluding from the

property tax exemption non-registered religions such as the Jehovah's Witnesses are discriminatory and prohibited. It ordered Belgium to pay to the Jehovah's Witnesses Euro 5,000 as a contribution to their legal expenses. Judge Georgios Serghides from Cyprus filed a partially dissenting opinion on the sole point that he would also have ordered Belgium to pay moral damages to the Jehovah's Witnesses, while the other judges concluded that the substantial finding on the property tax "constitutes in itself a just satisfaction for the non-material damage suffered by the applicants."

The decision is a significant precedent both for Belgium, where other forms of discrimination against non-registered religions are now likely to be challenged, and for other countries that may be tempted to grant different rights to different categories of religion, including by distinguishing between "good" and "bad" religions based on these "assessments by the State of the legitimacy of religious beliefs or the manner in which they are expressed" that the ECHR has explicitly prohibited.

*Photo : A view of the Belgium Branch Office of the Jehovah's Witnesses, Kraainem. Source: jw.org*

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**Massimo Introvigne** (born June 14, 1955 in Rome) is an Italian sociologist of religions. He is the founder and managing director of the Center for Studies on New Religions (CESNUR), an international network of scholars who study new religious movements. Introvigne is the author of some 70 books and more than 100 articles in the field of sociology of religion. He was the main author of the *Enciclopedia delle religioni in Italia* (Encyclopedia of Religions in Italy). He is a member of the editorial board for the *Interdisciplinary Journal of Research on Religion* and of the executive board of University of California Press' *Nova Religio*. From January 5 to December 31, 2011, he has served as the "Representative on combating

*racism, xenophobia and discrimination, with a special focus on discrimination against Christians and members of other religions” of the Organization for Security and Co-operation in Europe (OSCE). From 2012 to 2015 he served as chairperson of the Observatory of Religious Liberty, instituted by the Italian Ministry of Foreign Affairs in order to monitor problems of religious liberty on a worldwide scale.*

**Further reading about FORB in Belgium on HRWF website**

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