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SPAIN: Anti-Jehovah's-Witnesses group loses court case but says it won

SPAIN: Anti-Jehovah's-Witnesses group loses court case—but claims it won

The secretary of the Spanish Association of the Victims of the Jehovah's Witnesses was found guilty of violating the religious organization's right to honor and ordered to pay Euro 5,000 in damages.

by Massimo Introvigne

Bitter Winter (03.11.2023) – There is a new game among anti-cultists. They keep losing court cases, particularly against the Jehovah's Witnesses, but they claim they won.

This strange game started when FECRIS, the French-based umbrella organization of European anti-cult movements, lost a landmark case in 2020 at the District Court of Hamburg, in Germany, where it was found guilty of 18 counts of untrue factual allegations against the Jehovah's Witnesses. On May 24, 2021, *Bitter Winter* published a commentary of the decision. On May 30, 2021, i.e., six days after *Bitter Winter's* article, FECRIS published a press release about the case.

In the press release, FECRIS falsely claimed that it had won a case that it had in fact lost. Since the Jehovah's Witnesses had claimed that 32 FECRIS statements were defamatory, and the court found 17 of them defamatory, one partially defamatory, and 14 non-defamatory, FECRIS claimed that it had successfully defended its case in Hamburg. Obviously, it had not, as evidenced by the fact that FECRIS was sentenced to pay money to the Jehovah's Witnesses rather than vice versa. Later, documents obtained by "Bitter Winter" proved that in an internal meeting FECRIS had admitted it had lost the case.

Lawyers know that defamation cases are difficult. Not all false statements constitute defamation. Some statements may be inaccurate, yet the courts may regard them as a mere statement of opinion (referred to in the case law as "value judgments") rather than statements of fact, thus falling outside the scope of statutes protecting the right to honor. Organizations and tabloids that resort to systematic defamation know that they will be often sued about several statements, and that they will be sentenced for some and found not guilty for others. Their strategy is normally to downplay the negative decisions and claim victory when only some of the statements for which they were sued, but not all, are found defamatory—which is a common occurrence even in the most successful defamation

cases. They would also falsely claim that, when some of their statements have been found as non-defamatory, the courts have “certified” that they are “true”—while in fact a statement may be both inaccurate and outside the scope of defamation or breach of the right to honor.

The strategy has now been repeated in Spain by the Spanish Association of the Victims of the Jehovah’s Witnesses (AEVTJ), whose secretary, Enrique Carmona, was found guilty of having violated the Jehovah’s Witnesses right to honor by a decision rendered on October 25, 2023, by the Court of First Instance Number 1 of Torrejón de Ardoz. The decision is subject to appeal.

The court found that certain “expressions of the video entitled ‘Presentation of the Spanish Association of the Victims of Jehovah’s Witnesses’ uploaded to its YouTube channel, constitute an unlawful interference with the fundamental right to honor of the plaintiff [i.e., the Spanish Jehovah’s Witnesses]. The defendant is ordered to pay 5,000 euros for the damages suffered by the plaintiff as a result of the aforementioned intromission” (decision, p. 13).

The decision found that in the video “the defendant defines the plaintiff religious association as a ‘cult’ [‘secta’ in Spanish, but the word is normally translated by scholars with the English ‘cult,’ not with ‘sect,’ as ‘sect’ in English does not have a negative meaning], as ‘the worst of the cults,’ and then as a ‘dangerous cult.’” This is, the court says, “inaccurate, since the Christian Jehovah’s Witnesses are a religious denomination registered in the General Section (Minority Religions), registration number 000068, of the Registry of Religious Entities that is kept at the Ministry of Justice, so we are dealing with a confession legitimately recognized in our country, like many others. Therefore, to classify the plaintiff entity as a cult is erroneous since, in the context of the analyzed video, it implies attributing to it pernicious or harmful traits as opposed to the rest of the

religious confessions legally established in Spain” (p. 11).

Worse, the decision notes, the representative of the Spanish Association of the Victims of the Jehovah’s Witnesses “makes a parallelism between the Jehovah’s Witnesses, cults, and ‘diseases’, and catalogs the plaintiff organization as a ‘dangerous cult’, which, beyond the subjective opinions that some ex-members may hold, has no objective basis, and undoubtedly goes against the public consideration that every religious confession legally recognized by the state is entitled to, as is the case here. And there is more: the defendant, by implicitly alluding to the fact that the Jehovah’s Witnesses (or membership in their confession) are a disease, even makes a comparison in his lecture with ‘the cases of jihadism and terrorism.’ Although he recognizes that the Jehovah’s Witnesses ‘are not like that,’ he does insist that they are a disease ‘like diabetes, which people live with a certain normality but when they care to remember it they are broken inside’” (p. 11).

So, the court said, not only did Carmona call the Jehovah’s Witnesses a “cult,” but also a “disease,” an “expression that can hardly have a positive meaning.” It is a disease you may not always realize you suffer of, but “when you do, you are broken inside.” Obviously, “such a statement cannot be covered by freedom of expression. These are words clearly disproportionate and manifestly injurious against this or any other legally recognized religious confession, attacking its honor and public consideration” (p. 11).

Indeed, this is just the latest international decision to repeat that Jehovah’s Witnesses are not a “cult” in the usual derogatory meaning of the term. The European Court of Human Rights has ruled on several occasions that the Jehovah’s Witnesses are a “well-known Christian denomination ... [which has] established an active presence in many countries throughout the world, including all European States which are now members of the Council of Europe” (see e.g. ECtHR

Jehovah's Witnesses of Moscow v. Russia, no. 302/02, 10 June 2010 § 155; Kokkinakis v. Greece, no. 14307/88, 25 May 1993, Series A no. 260-A; Manousakis and Others v. Greece, no. 18748/91, 26 September 1996). It is, however, unlikely that Spanish anti-cultists, including the attorney of the defendant and the Spanish Association of the Victims of the Jehovah's Witnesses, Carlos Bardavío, who—strange as it may seem—is sometimes presented as “the greatest expert on cults in the world,” will finally admit that they are wrong.

In fact, unbelievably the Spanish Association of the Victims of the Jehovah's Witnesses and their lawyer, Carlos Bardavío, have claimed on social media that they have won the case (see image 3). In cases of defamation, there is a clear test to understand who won and who lost. The party that wins receives an indemnification. The party that loses pays for it. In this case, Carmona was sentenced to pay 5,000 euros to the Jehovah's Witnesses, which should have clarified the issue once and for all.

As mentioned earlier, in most similar cases the plaintiffs submit a list of statements they regard as violating their right to honor and reputation. When the plaintiffs succeed in their cases, the courts list some statements as injurious, but normally not all. Again, who had “won” the case can be easily seen by looking at who has to pay damages.

A common fallacy is to believe that when a court defines a statement as not injurious, it somewhat certifies it as true. This is not the case. For instance if somebody would argue that I am not Italian but American the statement, although perhaps formulated for malicious purposes, would probably be defined by a court of law as one not offending my honor. Yet, the statement would remain false.

Unfortunately, even some Spanish media seem to believe that since the court has not regarded certain statements by the Spanish Association of the Victims of the Jehovah's Witnesses

as formulated in a way that violates the rights to honor of the religious organization, the judge has stated that they are true. This is an impression created on the social media by the same anti-Jehovah's Witnesses association, but it is false. They claim, for example, that "99% of the statements" in the video have been "endorsed" by the court. It is not so.

For instance, the Association implies that since it has not been sanctioned for the sentences where it suggested that the Jehovah's Witnesses hide perpetrators of child sexual abuse, its corresponding statements were certified as true by the court. But this is not what the judgment says. In reality, the Court states that "although perhaps Mr. Carmona's words in his speech are somewhat excessive, he does not impute to the plaintiff entity the execution of a manipulative scheme aimed at actively preventing the sexual abuse of minors from being brought to the attention of the authorities." In other words, had Mr. Carmona made such an accusation, then it would have been judged to be defamatory. Importantly, the judge clarifies that the evidence showed that at no time are the Jehovah's Witnesses prevented from going to the police or judicial authorities to report crimes such as sexual abuse. How internal ecclesiastical courts among the Jehovah's Witnesses handle cases of sexual abuse for the purpose of disfellowshipping the perpetrators and whether the Witnesses report the incidents to the secular authorities are two different questions that should not be confused, the court said.

The decision also explains that "there are two spheres of action or intervention of the religious entity: the internal one, which is part of the freedom of self-regulation that all religions have to deal with such issues (including how to deal with or sanction an alleged sexual abuse among members), and the external one, where... at no time are the Jehovah's Witnesses prevented (nor is it clarified by the opposing how they could be prevented) from going to the police or judicial

authorities to report the abuses. These are different and parallel spheres that can perfectly coexist. It is irrelevant for our case whether or not there is a kind of 'ecclesiastical' court that judges these matters internally, because this does not prevent that one can and should, if necessary, go to the police or judicial authorities" (p. 9). It is not true, the court added, that Jehovah's Witnesses are "forced to lie to the judicial authorities," as demonstrated by the fact that "there are no convictions for crimes of obstruction of justice" against them (p. 10).

The judge made a similar conclusion concerning so-called "shunning" or ostracism, i.e., the teaching by the Jehovah's Witnesses that members should avoid social interaction with ex-members who have been disfellowshipped for having committed serious offenses and having not shown repentance, or who have publicly and formally left their organization. (Cohabiting relatives are not shunned, nor are those who simply become inactive and no longer participate in the organization's activities, without publicly disassociating from it).

The judge did not find that Carmona's statement against the practice had risen to the level of violating the right to honor of the Jehovah's Witnesses. Again, this did not mean that the court agreed with Carmona who alleged that the practice is illegal. On the contrary, the court repeated the commonsense conclusion that "if a person decides to stop talking or dealing with another person, this is part of the freedom that all subjects have to relate to whomever they wish" (p. 10). More specifically, the judge ruled that "if someone chooses to ignore or refuse contact with another person, it is a personal choice, and if the religious confession morally imposes that fact (which even the plaintiff's witnesses have confirmed to a certain extent), it would be part of the religious norms that the members accept, freely, when they decide to join or remain in the organization. Connecting a 'mental damage' to this state of

social isolation may be appropriate if it refers to a logical personal suffering when you see that those who used to speak to you do not do it any longer. But this would not justify attributing the greater responsibility to the religious entity nor to its members, who do nothing more than following their dogmas and principles, which is part of their religious freedom” (p. 10).

Summing up, the decision found the representative of the Spanish Association of the Victims of the Jehovah’s Witnesses guilty of having violated the Jehovah’s Witnesses’ right to honor by calling them a “cult,” which the court said they are not, and sentenced him to pay Euro 5,000 as damages. Although it did not conclude that Carmona’s statements about sexual abuse and “shunning” clearly amounted to a right to honor violation, the court very clearly concluded that the Jehovah’s Witnesses do not protect abusers from justice, do not prevent their members to report sexual abuse to secular authorities, and have a right to teach and practice “shunning,” which is part of their freedom of religion.

If this is a “victory” for the anti-Jehovah’s-Witnesses camp, perhaps Napoleon won in Waterloo, too. I am sure the Jehovah’s Witnesses would wish the anti-cultists many similar happy “victories” in the future.

Photo: The Justice Court of Torrejón de Ardoz. From X. It will move to new premises at the end of 2023.

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 Spain on HRWF website

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