

Scientology v. Germany: 50 years of legal battles

HRWF (05.10.2020) – As Scientologists celebrate the 50th anniversary of the settlement of their Church in Germany, Ivan Arjona, their European representative, requested a UN investigation into discrimination against Scientologists in Germany during a statement at the 45th session of the UN Human Rights Council in Geneva.

Arjona reminded Germany's representative to the UN that "over the past three decades, dozens of German courts have condemned the actions of the government against Scientologists at different levels and recognized their rights as per Article 4 of [the German] Constitution." Article 4 decrees that: "Freedom of faith and conscience, and freedom to profess a religious or philosophical creed shall be inviolable."

He also stressed that the German executive powers have ignored the decisions of the German courts for almost 50 years now.

"Sect filters" and discrimination

Last year, at the OSCE/ODIHR Human Dimension Implementation Meeting (HDIM) in Warsaw, some NGOs criticised Germany for stigmatising and discriminating against people who believe in the teachings of Scientology.

In Bavaria and a few other German Länder, the authorities use what they call "sect filters" when someone applies for a public job, a public service contract or a government bid. These "sect filters" contain questions exclusively targeting the possible affiliation or relationship of the candidate with

Scientology. If so, the candidate is disqualified. If the applicant refuses to fill in the questionnaire, they are also disqualified.

“This is not only intrusive and discriminatory, but this gravely violates the international human rights standards and stigmatises the followers of Ron Hubbard’s teachings as sub-citizens,” one of the NGOs said. The teachings of Scientology are not banned in Germany and spreading them is not a criminal activity. Therefore, their followers should not be treated differently from the followers of the Bible, the Coran, the Bhagavad Gita, the Buddhist or any other teachings.

The German delegation to the OSCE replied to these challenges by stating that in their country Scientology is not recognized as a religious community.

However, this answer was irrelevant for two main reasons. Firstly, according to the OSCE/ODIHR standards, a non-recognition of a religious or belief system by the state does not justify discrimination against its followers. Secondly, German courts have already ruled that Scientology was entitled to the protection of Article 4 of the Basic Law on Freedom of Religion or Belief.

German court decisions finding Scientologists and their Church to be protected under Article 4 of the German Constitution

1. *Church of Scientology of Berlin v. City of Berlin*, 27 February 2009, Berlin Administrative Court.
2. *B. v. City of Hamburg*, 27 June 2008, Hamburg Administrative Court.
3. *Church of Scientology of Germany, Church of Scientology of Hamburg v. City of Hamburg*, 7 March 2008, Hamburg Civil Court of Appeal.
4. *B. v. City of Hamburg*, 19 December 2007, Hamburg State Administrative Court of Appeal (referred to in #2 above at page 5).

5. *Church of Scientology of Berlin v. City of Berlin*, 29 June 2006, Administrative Court Berlin.
6. *B. v. City of Hamburg*, 15 June 2006, Administrative Court Hamburg.
7. *K. v. City of Hamburg*, 15 December 2005, Federal Administrative Supreme Court.
8. *Winkler v. State of Bavaria*, Federal Supreme Administrative Court, March 2005.
9. *Celebrity Centre Church of Scientology Munich v. County of Upper Bavaria*, 2 November 2005, Bavarian State Administrative Court of Appeal.
10. *K. v. City of Hamburg*, 17 June 2004, Hamburg State Administrative Court of Appeal.
11. *Church of Scientology of Dusseldorf v. City of Dusseldorf*, District Court Dusseldorf, March 2004.
12. *Church of Scientology Stuttgart v. State of Baden-Württemberg*, 12 December 2003, State Administrative Court of Appeal Baden-Württemberg.
13. *Church of Scientology International v. City of Hamburg*, 22 April 2003, State Administrative Court of Appeal Hamburg.
14. *Church of Scientology International v. City of Munich*, 26 March 2003, Munich Administrative Court.
15. *Z. v. Church of Scientology Berlin*, 26 September 2002, Federal Supreme Labor Court.
16. *Church of Scientology International v. City of Hamburg*, July 2002, State Administrative Court of Appeal Hamburg.
17. *Scientology Mission Ulm v. City of Kempten/Allgäu*, 25 November 1996, Administrative Court Augsburg.
18. *Church of Scientology Bavaria v. Federal Labor Office*, 19 January 2000, Social Court Nuremberg.
19. *Church of Scientology Stuttgart v. City of Stuttgart*, 17 November 1999, Administrative Court Stuttgart.
20. *H. v. Church of Scientology Hamburg*, 5 January 1998, District Civil Court of Hamburg.
21. *Scientology Mission Neue Brücke v. State of Baden-*

- Württemberg*, 6 November 1997, Federal Supreme Administrative Court.
22. *City of Freiburg v. E.*, 6 February 1996, District Court Freiburg.
 23. *Scientology Mission Neue Brücke v. State of Baden-Württemberg*, 2 August 1995, State Administrative Court of Appeal Baden-Württemberg.
 24. *Church of Scientology Hamburg v. City of Hamburg*, 16 February 1995, Federal Supreme Administrative Court.
 25. *Church of Scientology Hamburg v. City of Hamburg*, 24 August 1994, State Administrative Court of Appeal Hamburg.
 26. *S. v. Scientology Mission Nymphenburg*, 30 March 1993, Superior Civil Court Munich.
 27. *Church of Scientology Germany v. State Baden-Württemberg/ABI*, 26 August 1992, Administrative Court Stuttgart.
 28. *G. v. Church of Scientology Frankfurt*, 27 May 1992, Superior Civil Court of Frankfurt.
 29. *Scientologist v. Newspaper Publishing House*, June 1992, Civil Court of Appeal Stuttgart.
 30. *State Attorney with Superior Court Berlin v. Church of Scientology of Berlin*, 22 January 1991.
 31. *City of Hannover v. H.*, 19 September 1990, District Court Hannover.
 32. *Church of Scientology Frankfurt v. City of Frankfurt*, 4 September 1990, Administrative Court Frankfurt.
 33. *P. v. Church of Scientology Frankfurt*, 7 June 1989, Superior Civil Court Frankfurt.
 34. *Church of Scientology Berlin v. State of Berlin*, 12 October 1988, Administrative Court Berlin.
 35. *Church of Scientology Celebrity Centre Hamburg v. City of Hamburg*, 17 February 1988, Superior Civil Court Hamburg.
 36. *Church of Scientology of Frankfurt v. City of Frankfurt*, 7 October 1987, State Attorney with the Superior Court of Frankfurt.

37. *Scientology Mission Ulm v. State of Baden-Württemberg*, 3 September 1986, Administrative Court Sigmaringen.
 38. *Church of Scientology Germany v. City of Munich*, 10 December 1985, Bavarian State Administrative Court of Appeal.
 39. *Church of Scientology Hamburg v. City of Hamburg*, 14 October 1985, Administrative Court Hamburg.
 40. *Church of Scientology Germany v. City of Munich*, 25 June 1985, Bavarian State Administrative Court of Appeal.
 41. *In re City of Stuttgart v. K.*, 20 May 1985, District Court Stuttgart.
 42. *In re City of Stuttgart v. M.*, 30 January 1985, District Court Stuttgart.
 43. *Church of Scientology Germany v. City of Munich*, 25 July 1984, Administrative Court Munich.
 44. *X. v. City of Berlin*, 11 February 1981, Administrative Court Berlin.
 45. *Church of Scientology Germany v. Federal Republic of Germany*, 25 September 1980, Federal Supreme Court.
 46. *S. v. Federal Republic of Germany*, 27 August 1980, Administrative Court Frankfurt.
 47. *X. v. Federal Republic of Germany*, 14 December 1978, Administrative Court Darmstadt (and appeal of 14 November 1980).
 48. *F. v. Church of Scientology Stuttgart*, 8 December 1976, District Court Stuttgart.
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FRANCE: Church of Scientology

wins case in appellate court of Caen against the former head of Miviludes, Georges Fenech

By Willy Fautré

HRWF (13.02.2019) – Georges Fenech, 64, former president of the MIVILUDES (Interministerial mission for the monitoring and fight against cults) from 2008 to 2012 and three times member of the National Assembly, recently lost a case against the Church of Scientology for violating the legal principle of presumption of innocence.

On 18 December 2018, the first civil chamber of the appellate court of Caen ordered him to pay 1000 EUR to the Church of Scientology for damages. Fenech, who is a former magistrate, will also have to pay 4000 EUR for court costs. The offence was committed on 12 September 2014 during an interview on Europe 1 radio station when he declared that the Church of Scientology had been found guilty in a case of abuse of weakness by the Church and one of its members, the CEO of the thriving BTP company in the Yvelines. In summer 2014, some of BTP's employees had lodged a complaint for moral harassment and abuse of weakness, alleging that they had been forced by the CEO to follow classes on Scientology.

Several months after that radio interview, the Church of Scientology referred the case to the TGI of Caen (Court of

Great Instance). On 23 January 2017, the TGI declared the request inadmissible. The Church appealed the decision and on 18 December 2018, the appellate court of Caen took a decision in favour of the Church, arguing that Fenech had presented the plaintiff as already convicted, which was not the case.

In its decision, the court stressed a number of aggravating circumstances concerning Fenech. As he had been a magistrate and the head of Miviludes, and had claimed on the radio that in the performance of his duties he had allegedly stated the negative influence of the Church of Scientology in the suicide of a young man, he posed himself as an expert. According to the court, his statements were made without any reservation or precaution and without checking the facts and its sources of information.

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RUSSIA: Complaints against a judge and the FSB in a trial against a Scientology prisoner of conscience

On 28 November, the St Petersburg City Court will hear an appeal filed against a judge and the FSB (KGBs successor) by the defense lawyer of the leader of the Scientology Church, Ivan Matsitsky, who in September was adopted as a prisoner of conscience by the US Commission on International Religious Freedom (USCIRF), a bipartisan federal government entity based in Washington – writes Willy Fautré, Director of Human Rights Without Frontiers (Brussels)

EU Reporter (25.11.2018) – <https://bit.ly/2RdWfq9> – Under the fire of lawyer Evgeny Tonkov are Judge Evgeny Isakov and Senior Lieutenant Sergey Myakin of the Investigative Branch of the FSB in St Petersburg.

Ivan Matsitsky is a Russian Scientologist who has been held in pretrial detention for 17 months. In the background here is the Russian “extremism law” which is repeatedly used and abused by the authorities to persecute non-Orthodox minority religions and their members even though they do not incite to or use violence.

Last month, on 16 October, the judge of the St Petersburg City Court, Evgeny Isakov, again extended the pretrial detention of Matsitsky in controversial circumstances – the Investigative

Branch of the FSB had obstructed him from properly challenging the repeated extensions of his detention in court during the previous four months.

Ivan Matsitsky's lawyer claims that the judge's decision is illegal as any extension of detention is "beyond every limit" and possible only in exceptional cases, which his client's situation is not. Furthermore, according to the law, Matsitsky should have been provided with the materials of the case, for his study, no later than 30 days prior to the end of the detention period. The prosecution stated in their motion that this was done last May 4th but lawyer Tonkov claims that this procedure has never been carried out. Matsitsky's lawyer claims that Senior Lieutenant Sergey Myakin of the Investigative Branch of the FSB did not provide even one volume of the criminal case to his client and he also accuses him of having falsified materials in the case.

Last but not least, the lawyer complains that the judge prohibited him from questioning the investigator about this matter during the course of the court hearing.

The leader of the Church of Scientology and four of his fellow members have been charged under Part 2 of Article 171 of the Criminal Code of Russia (illegal entrepreneurship committed by an organized group), Part 2 of Article 282 of the Criminal Code of Russia (incitement of hatred or enmity, as well as disparagement of human dignity committed by an organized group), and Parts 1 and 2 of Article 282.1 of the Criminal Code of Russia (organization of and participation in an extremist conspiracy). These accusations are baseless according to their lawyers.

More than thirty Russian citizens of other peaceful religious movements are currently under pretrial detention under the most spurious charges.

In 2018 USCIRF again recommended that Russia be designated as a “country of particular concern” under the International Religious Freedom Act (IRFA).

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RUSSIA: NGOs express serious concerns about rights of

defense violations in Scientology case

HRWF (20.11.2018) – Scientologists are in jail in Saint Petersburg for the sole fact of practicing their faith, which Russian authorities regard as “extremist,” a charge also used against other groups. We have followed with great concern news published in the Russian media about serious irregularities in the case of Scientologist Ivan Matsitsky, who has been in jail in the last seventeen months. The FSB is being accused of fabricating evidence, and the prosecuting judge of having violated the rights of the defense by not providing Matsitsky and his attorneys with the materials of the case within the date required by the law, and by extending Matsitsky’s pre-trial detention beyond any reasonable limit.

We understand that Matsitsky’s attorney has filed complaints against both Judge Evgeny Isakov and the FSB. We urge the Russian authorities to seriously investigate the complaints, to restore Matsitsky’s right of defense, and to abandon their faulty interpretation of the notion of extremism, which is used as a tool to ban unpopular religious minorities.

2018

CAP-LC Coordination des Associations et des Particuliers pour
la Liberté de Conscience

CESNUR – Center for Studies on New Religions

EIFRF European Inter-Religious Forum for Religious Freedom

FOB – European Federation for Freedom of Belief

FOREF – Forum for Religious Freedom Europe

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RUSSIA: After the ban of Jehovah's Witnesses, the Church of Scientology seems

to be the next priority target

Russian authorities raid Church of Scientology in St Petersburg

HRWF (09.06.2017) – On 6 June, over sixty Federal Security Bureau (FSB) officials and SWAT police raided the Church of Scientology's branch in St. Petersburg and the homes of church members as part of a probe into allegations of illegal entrepreneurship, incitement of hatred, and extremism.

Five leaders of the group were arrested, detained and interrogated by the FSB. Four of them – Anastasia Terentieva, Galina Shurinova, Ivan Matsitskiy and Sakhil Aliev – were sentenced to two months pretrial detention on 7th and 8th June, 2017 by the Court. This maximum pretrial sentence may be extended before it expires. The fifth arrested local leader, lawyer Konstanzi Esaulkova, has a hearing on 9th June 2017 regarding her pretrial detention.

If convicted, these five individuals could face a six to ten-year prison term.

Based on the search warrants and public statements made by the FSB, the raid took place as a result of charges concerning Article 171 (illegal commercial activity without registration) and Articles 282 and 282.1 of the criminal code (extremism). The charge of illegal commercial activity without proper registration of a legal entity and its subsequent investigation opened last year. The extremism charges are new as no court has ever made such a finding.

The 6 June raid on the U.S.-based church comes after Russia's Supreme Court in April issued a ruling banning Jehovah's Witnesses and seizing their property.

The FSB said the probe was initially launched into the church's earnings from selling educational materials to new recruits.

The Moscow Regional Court ruled in 2012 that some books of the Church of Scientology be included on the Federal List of Extremist Literature and prohibited from distribution in Russia. Complaints against Russia are pending in Strasbourg on this issue.

In 2015 the Moscow Church was also ordered to "liquidate" itself on the grounds that its name is trademarked in the United States and is therefore not a religious organisation. However, their case is pending at the European Court in Strasbourg.

The Church of Scientology was first registered officially in Russia in 1994 but the authorities have pursued it through the courts in recent years. In 2007, 2009 and 2014, the European Court of Human Rights ruled twice in favor of the Church, saying that Russia violated its rights by refusing to re-register the Church of Scientology of Moscow (*Church of Scientology Moscow v. Russia, Application no. 18147/02*), Nizhnekamsk and Surgut (*Kimlya and Others v. Russia, Applications nos. 76836/01 and 32782/03*) and St Petersburg (*Church of Scientology of St Petersburg and Others v. Russia, Application no. 47191/06*). In each case, the decision of the European Court acknowledged that there had been a violation of Article 9 of the European Convention, which protects freedom of religion or belief. However, Russia did not implement the judgment.

Three of the imprisoned leaders of the Church were applicants in the successful ECHR case to register the Church. Now they

are being imprisoned on the grounds that they are operating a group that is not legally registered...

The Church of Scientology was founded in the United States in 1954 by science-fiction writer L. Ron Hubbard and was accorded the status of a religion in the U.S. in 1993.

Arrests and imprisonment

On 8 June, the Nevsky District Court of St. Petersburg on Wednesday ordered the detention of executive director of Church of Scientology local religious group, **Galina Shurinova**, until August 5.

Shurinova is officially charged with participating in an extremist organization, illegal business, inciting hatred and enmity, and violation of human dignity. The accusation of "illegal commercial activities" could be used against the Church because the Russian authorities had refused to re-register it as a religious organization and as a non-profit association years ago, despite the decision of the European Court which recognized that it was a religious or belief community. Exhaustion of domestic remedies on this case recently occurred and the Church is in the process of going back to Strasbourg on this matter.

Law enforcement officers have seized literature banned in Russia as extremist during searches at her premises, an investigator said in court.

According to the FSB, Shurinova is the main manager of Church of Scientology of St. Petersburg and exercises control over cash inflow. From 2013 to 2016, the organization allegedly received over 276 million rubles (\$4.9 million) for rendering its services.

However, the Church of Scientology of St. Petersburg has not been incorporated under the law, an FSB representative noted in court.

Shurinova motioned for house arrest or release on bail.

On 7 June, the court detained two other managers of Church of Scientology of St. Petersburg, **Tatyana Terentyeva** and **Sakhib Aliev**.

At a conference on religious freedom in Russia held at the European Parliament on 6 June, **Human Rights Without Frontiers** denounced the misuse of the accusation of extremism (without use of violence) against and the banning of peaceful religious movements such as Jehovah's Witnesses and two Muslim religious groups, Tablighi Jamaat and Said Nursi followers.

As the international community, including the EU, has remained silent every time each of these groups has been banned, Putin will continue his strategy of eliminating other 'unknown' or 'unpopular' religious minorities in breach of its obligations under international law and in total impunity as long as there is no foreign reaction.

Human Rights Without Frontiers urges the EU institutions to monitor more closely Putin's policy of eradication of non-Orthodox minorities in the name of the "spiritual security concept" and to voice its concerns about the present situation of all religious minorities in Russia.

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