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ECHR: European Court of Human Rights and the ban on worship by COVID

ECHR: European Court of Human Rights to determine whether it was legal to worship by COVID

ZENIT News (31.07.2023).- Are blanket bans on public worship compatible with the international human right to the communal exercise of religious freedom? This is the question brought by former EU Special Envoy for Freedom of Religion or Belief, Dr. Ján Figel', who has filed a challenge at the European Court of

Human Rights (ECtHR) on the 2021 COVID restrictions on public worship. Figel', co-represented by human rights organisation ADF International and local Slovak lawyer Martin Timcsak, now submitted his arguments to the court.

“Religious freedom as a basic human right deserves the highest level of protection. Prohibiting people from worship and communal religious exercise is profoundly illiberal and illegitimate. Worship bans were unfair and disproportionate. Our arguments submitted to the Court demonstrate clearly that blanket bans are violations of religious freedom under international human rights law,” stated Dr. Ján Figel'.

Figel's case might be the first where Europe's top human rights court rules on the blanket bans on public worship during the Covid pandemic. The decision would set a precedent for 46 European States with 676 million citizens.

“In times of crisis, fundamental freedoms need to be protected, rather than weakened.”

In 2021 the Slovak Republic prolonged its COVID restrictions, banning religious services. Dr. Ján Figel' and ADF International lead lawyer Dr. Adina Portaru argue that the restrictions violated both national and international law.

“We are committed to supporting Dr. Ján Figel' and his defence of religious freedom. The international legal framework is very clear in its protection of this right as it benefits everyone – people of faith as well as people of no faith. Fundamental freedoms apply to all, and in times of crisis they must be protected rather than weakened,” said Dr. Adina

Portaru, Senior Counsel for ADF International.

Individual or digital worship not sufficient

In the submitted arguments Figel's legal team highlights that religious freedom specifically includes the right to communal worship under the law. The Slovak government previously had argued that spirituality can be lived out individually.

However, as the ECtHR has upheld repeatedly, freedom of religion specifically includes the "freedom to manifest one's religion not only alone and in private but also in community with others, in public and within the circle of those whose faith one shares".

The Slovak government also put forward the option of digital worship as a justification for the blanket ban. Recent court rulings throughout Europe, however, arrive at different conclusions. Scotland's highest civil court ruled on the same issue, holding that digital options "are best viewed as an alternative to worship, rather than worship itself".

Restrictions were not "proportional, appropriate, and necessary"

The case rests on the fact that the Slovak blanket ban was neither proportional, nor appropriate or necessary.

"Nobody should be prohibited from peacefully exercising his or her convictions, and it was evident that religious worship could be conducted safely during the pandemic. Blanket bans

ignore the central role that religion plays in the lives of believers. For people of faith, communal worship, spiritual nourishment, can be as important as bodily nourishment. That's why international and European law and our very own Constitution holds religious freedom so dearly. I expect that the ECtHR will consider this holistically with a keen eye for the role of human rights in a democratic society," said Dr. Ján Figel' upon submitting the arguments.

Former Special Envoy for Freedom of Religion now defends human rights at home

Ján Figel' served as European Commissioner in various positions between 2004 and 2009. In 2016 he was appointed as Special Envoy for Freedom of Religion or Belief outside the EU, a position he held until 2019.

"As Special Envoy, it was evident to me that the EU cannot credibly advance religious freedom throughout the world if its Member States fail to uphold fundamental freedoms at home," Figel' added.

A newly released video features Dr. Ján Figel' and ADF International lead lawyer Dr. Adina Portaru in Bratislava/Slovakia.

Worldwide advocacy for religious freedom

Figel's challenge has been backed by a civil society coalition of diverse representatives from the arts, academia, and politics with different faith backgrounds. Bishops and other faith leaders also have welcomed his case.

ADF International has been involved worldwide in cases regarding worship bans and violations of religious freedom in the context of Covid restrictions. In Uganda, the organisation supported a coalition of Christians and Muslims challenging a discriminatory prohibition of religious gatherings. Further, ADF International advocated to open churches for worship in Ireland, Scotland, and Switzerland.

[Further reading about FORB in ECHR on HRWF website](#)

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