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## **Court of Rome: Jehovah's Witnesses "ostracism" is not illegal**

**Judges confirmed that counseling members to shun ex-members is part of both corporate religious liberty and the individual right to choose who to associate with.**

by Massimo Introvigne



*Jehovah's Witnesses' evangelization in Italy (credits).*

Bitter Winter (07.06.2021) - <https://bit.ly/36MY3Qp> - On May 23, 2021, the Justice Court of Rome issued a decision in the case RGN 76320/2016 whose grounds have now been published, in a case of "ostracism" of a former member by the Jehovah's Witnesses. "Ostracism" and "shunning" are the terms normally used by the opponents of the Jehovah's Witnesses, and are also often used by the media, while the Jehovah's Witnesses themselves do not use them.

The plaintiff had sent a letter in 2011 to both his local and the national Italian organization of the Jehovah's Witnesses resigning as a member of the Association Christian Congregation of the Jehovah's Witnesses. In the letter, he stated that he still believed in the main doctrines taught by the Jehovah's Witnesses, although he no longer

wanted to be a member of the organization (a contradictory statement, because that a believer should be part of the organization of the Jehovah's Witnesses is precisely a "main doctrine" for them).

His resignation was accepted, and he asked the elders not to publicly announce it, since this might damage his social and business life due to the Jehovah's Witnesses practice of shunning the ex-members or limiting association with them with the exception of cohabiting relatives. The elders announced in a congregation meeting that the plaintiff "was no longer one of the Jehovah's Witnesses." As a consequence, the plaintiff claimed that, because of the doctrine and practice he called "ostracism," former co-religionists, including relatives and some who used to be close friends, ceased all social relations with him, and would not even greet him when meeting on the streets; some also personally decided to cease to patronize his business. As a consequence, the plaintiff claimed to have suffered psychical (in the form of "psycho-physical stress") and economical damages, and asked the court for monetary compensation.

The judges first ascertained that, in accordance with the by-laws of the Association Christian Congregation of the Jehovah's Witnesses, a member who sent a letter of resignation is no longer a Jehovah's Witness once the resignation is accepted, irrespective of which doctrines s/he may still believe or not believe in.

The main theme of the case was whether the public announcement that the plaintiff "was no longer one of the Jehovah's Witnesses," which triggered what he called "ostracism," violated the plaintiff's rights. The court answered in the negative, and found for the Jehovah's Witnesses, stating that the religious community has the right to announce who ceases to be a Jehovah's Witness.

While other arguments were advanced by the plaintiff, the judges said, at the end of the day only one question is relevant, whether by shunning the plaintiff and no longer patronizing his business, his former co-religionists (including some [non-cohabiting] relatives) did anything illegal. If they did, then the Jehovah's Witnesses might be guilty of inciting an illegal behavior.

However, the court said, the behavior was perfectly legal. There are no laws compelling people to associate with friends and relatives they no longer want to see, for whatever reason, nor to greet them in the street, or patronize their businesses. Issues of "civility and good manners" are not justiciable. Individuals have a right to decide who to associate with. The court in fact recognized two parallel rights: a religious organization has the right to impart its teachings, and an individual believer has the right to decide how to behave in certain situations, based inter alia on the religious teachings s/he received.

The conclusion is that the Jehovah's Witnesses' teachings about what the plaintiff called "ostracism" suggest to their members a legal behavior. As a consequence, imparting these teachings is also legal.

The court mentioned that the plaintiff had previously complained to the Italian Ministry of Internal Affairs, which answered that the internal life of the Jehovah's Witnesses is autonomously regulated by their charter. The court commented that there is a sphere of autonomy of religious organizations the state or the judiciary cannot interfere with.

The plaintiff was also ordered to pay the costs of the litigation to the Jehovah's Witnesses.

The court also observed that its conclusion is supported by a previous similar case decided by the Italian Supreme Court of Cassation in 2017, and that those who criticize shunning practices propose a reductive view of religious liberty, focusing only on the rights of the individuals, while Italian law and case law also recognize religious liberty as a corporate right vested on organizations. Senior Italian legal scholars **applauded the Rome decision** as confirming this important principle.

The Rome decision is coherent with **an impressive international body of decisions** acknowledging that the Jehovah's Witnesses' practice called by their opponents "ostracism" or "shunning" is protected as part of their corporate religious liberty. One recent decision by the Court of Ghent, Belgium, took the opposite view, but it has been appealed, and hopefully will be reversed by a higher court.

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## **Vatican vs Italy on new homophobia bill: why it's a religious liberty issue**

***The Vatican claims the new law would breach the Concordat between Italy and the Holy See, an international treaty. It is not about LGBT rights, it is about freedom of religion or belief.***

By Marco Respinti

Bitter Winter (24.06.2021) - <https://bit.ly/3xOKpaN> -The Italian Senate is now discussing **the so-called "Zan bill,"** named after its original drafter, MP Alessandro Zan, of the Democratic Party, which the House of Representatives approved on November 4, 2020. Those favorable to the bill claim that it merely extends to LGBT+ persons (and those with handicaps) the provisions of a 1993 law (known as "Legge Mancino") against hate speech, and discrimination and violence because of race, ethnicity, religion and national identity, by adding also sexual orientation and handicaps to the categories protected by that law. But critics (among which, by the way, are also some prominent homosexuals, and feminist activists) mention some flaws in the bill, while approving the provisions against all kind of violence and incitement to violence against LGBT+ persons (unnecessary to say, this is also my position). There are two main objections.

### ***The main objection***

First, current Italian laws already punish hate, discrimination, and violence against LGBT+ persons. In fact, when identified, perpetrators of hate crimes against anyone, including LGBT+ persons, are arrested, go to court and, if found guilty, serve terms in prison. This would seem to settle the question, but the "Zan bill" introduces a novelty. In addition to sex, gender, and sexual orientation, it also protects "gender identity." Article 1, paragraph d, of the "Zan bill" defines "gender identity" as "the perceived and manifested self-perception of one's gender, even if not corresponding to one's [biological] sex, independently from having concluded a transition path" ("l'identificazione percepita e manifestata di sé in relazione al genere, anche se non corrispondente al sesso, indipendentemente dall'aver concluso un percorso di transizione.") But a "perceived gender identity," critics of the bill argue, is not unanimously accepted and cannot be clearly defined, thus opening the way to arbitrary interpretations.

The risk, critics say, is that every expression of legitimate criticism of the notion of "gender identity" by anyone can be constructed as hate speech, curtailing freedom of expression. But there is more. Critics argue that in the case of priests and pastors, rabbis and imams, catechists or simple religious believers, every theological, philosophical, and moral criticism of any sexual behavior based on religion and theology could be labeled as "hate speech," and the supposed trespasser brought to court. It is the case also for agnostics or atheists, who could be sanctioned if they express opposition to a specific sexual behavior based on their own secular philosophy.

As a matter of fact, article 4 of the "Zan bill," claims to protect freedom of expression in the field but, only if statements do not create a "danger of discrimination" (or violence). Critics are afraid that a priest, pastor, rabbi, imam, or lay preacher who would, for example, preach that those who have entered into a same-sex union should be censored from the relevant religious community, or lecture his or her flock against same-sex marriage might be accused of creating a situation leading to a "danger of discrimination." The problem, critics say, is not whether we agree or disagree with such statements. It is whether a law should prevent religious believers from freely expressing them.

An ancillary problem is article 7, instituting May 17 as the National Day Against all Forms of Homophobia, to be celebrated in all schools. Critics of the bill fear that this may compel religious schools, and teachers who have alternative opinions about homosexuality based on their religion, to teach something they do not agree with, and be sanctioned if they don't.

### **The Vatican response**

Now, in an unprecedented move, the Vatican has asked the Italian government to reconsider some provisions of the "Zan bill," because they may breach the Concordat between the Italian Republic and the Holy See, and thus religious liberty.

On June 17, Msgr. Paul Richard Gallagher, Vatican Secretary for Relations with the States (in substance, a Vatican Deputy Minister of Foreign Affairs) delivered a "verbal note" (this is the technical definition) to the Italian Embassy to the Holy See.

The foremost Italian daily newspaper, *Corriere della Sera*, [published the core sentence](#) of that "verbal note": "Some current contents of the bill under examination by the Senate reduce the liberty granted to the Catholic Church by Article 2, paragraphs 1 and 3 of the agreement revising the Concordat" ("Alcuni contenuti attuali della proposta legislativa in esame presso il Senato riducono la libertà garantita alla Chiesa Cattolica dall'articolo 2, commi 1 e 3 dell'accordo di revisione del Concordato".)

The Concordat, also known as the "Lateran Treaty," was signed by the Kingdom of Italy and the Holy See on February 11, 1929. In 1948, it was received in the Constitution of the Republic of Italy at article 7, and in 1984 it was revised. Article 2, paragraph 2, of the 1984 revision grants the Catholic Church "liberty of organization, liberty of public worship, and liberty of exercising its episcopal teaching and ministry," while paragraph 3 grants "to Catholics and their associations and organizations full liberty of assembly and manifestation of thought in words, texts, and every other way of sharing."

It is important to note that, unlike the "intese" with other religions (a word also usually translated in English as "concordats"), the 1929/1984 Concordat with the Catholic Church was not stipulated between Italy and the Italian representatives of the Catholic Church.

It is an international treaty signed with a foreign state, the Vatican, and as such, again unlike the "intese," can only be litigated in international fora.

Why did the Vatican intervene, invoking international law? The Holy See is afraid that freedom of teaching their traditional doctrine on homosexuality may expose priests and lay believers to the serious penalties imposed by the law against those who create a "danger of discrimination." Of course, within the Catholic Church, there are different positions about homosexuality. What the Vatican is trying to do is to protect the expression of all of them, conservative as well as liberal.

Accusations to the Vatican of interfering with Italian politics are growing, but this is a false problem. The Concordat is an international treaty, not a part of Italian domestic law. When Italy signed this treaty, it guaranteed to bishops, priests, and lay Catholics an immunity from prosecution when they teach what the Vatican believes to be part, or within the boundaries, of Catholic doctrine, no matter whether these teachings are unpopular, or not shared by non-Catholics (or even by a portion of the Catholics).

It is not about the Vatican's power, and it is not even about LGBT rights. It is about religious freedom. The "Zan bill" is about homosexuals, but other bills may prevent religions from creating a "danger of discrimination" against their expelled ex-members, or politicians who may be excommunicated from promoting certain laws, or from criticizing the laws of the state on a variety of matters, from social policies to immigration. While the Concordat is unique in its nature as an international treaty, other religions may have domestic remedies based on their "intese," or on the general principle of freedom of religion or belief, which is protected by the Italian Constitution and the European Convention on Human Rights. The Vatican's statement, in this sense, may be beneficial also to non-Catholics.

Photo : Mgr. Paul Richard Gallagher, Vatican Secretary for Relations with the States ([credits](#)).

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