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The sect observatory has committed a fault against Jehovah's Witnesses

Le Soir (24.06.2022) - https://bit.ly/3y84MS6 - In 2018, several media outlets published articles claiming that Jehovah's Witnesses were hiding sexual abuse of minors within their own community.

These articles were based on a report by CIAOSN, the Centre for Information and Advice on Harmful Sectarian Organisations. The religious organisation was angry with the centre, which it accused of damaging the reputation of Jehovah's Witnesses, and took the matter to court.

The Brussels court of first instance has just ruled in its favour. It states that "the CIAOSN committed a fault by drafting and distributing the report entitled 'Reporting on the treatment of sexual abuse of minors within the Jehovah's Witnesses organisation' and the recommendation 'concerning transparency within religious and philosophical groups and the protection of minors against sexual abuse in particular'".

The judgement also condemns the Belgian State to publish the judgement on the homepage of the CIAOSN website for six months. No compensation is awarded to the organisation as no damage could be proven. Frédéric Delepierre

Original version in French: https://bit.ly/3y84MS6)

Media stigmatization of Jehovah's Witnesses in Belgium

HRWF (30.06.2022) - On Thursday 20 December 2018 at 6.30am, **Belga** press agency published a breaking news which immediately inflamed all the media: **"Sexual abuse on minors among Jehovah's Witnesses? The Information Center on Cults requests**

an inquiry". Very soon, as it could be expected, the question mark disappeared from the title in the media online:

Twenty-four minutes later, **La Libre Belgique** and **La Dernière Heure** titled **"Sexual abuse on minors among Jehovah's Witnesses: An inquiry is necessary"**.

At 1.35pm, **Le Soir**, another leading newspaper, made one more step, titling **"How Jehovah's Witnesses in Belgium silence sexual abuse on minors inside their community."**

On the same evening, **the Belgian francophone TV channel RTBF** announced in its 7.30pm TV News that the CIAOSN was asking the House of Representatives to establish an inquiry commission about possible sexual abuses 'among' Jehovah's Witnesses. In addition, the RTBF posted on its website an article titled **"Sexual abuse on minors among Jehovah's Witnesses? The Information Center on Cults demands an inquiry."** The RTBF TV news was followed by an interview of two former Jehovah's Witnesses. The RTBF also gave the floor to a spokesperson of Jehovah's Witnesses and was the only media to do it. He explained the internal procedure in force in cases of sexual abuse: to take all necessary measures so that the authorities are informed and to protect the children

The RTBF finally justified its report by concluding that "in the Netherlands, in eight months' time, the authorities had collected 286 testimonies of sexual abuse; this country has about 25,000 Jehovah's Witnesses, a number close to the one in Belgium."

By the end of the day, public opinion and political decision-makers in Belgium were unavoidably convinced that sexual abuse on minors had been practiced for a long time and in total impunity inside the Belgian movement of Jehovah's Witnesses because their community leaders were illegally hiding such facts. Moreover, the CIAOSN appeared to be a necessary vigilance mechanism for the protection of children against Jehovah's Witnesses and on its website, it published a call for collecting testimonies of Jehovah's Witnesses who had been victims of sexual abuse.

On 30 June 2022, a spokesperson of the Belgian association of Jehovah's Witnesses told *Human Rights Without Frontiers* that they sent a press release to *Le Soir, La Dernière Heure, RTBF, RTL La Libre Belgique* and ten more francophone media outlets but only *Le Soir* had publicly its readers about the acquittal of all the charges.

Human Rights Without Frontiers congratulates *Le Soir* and the journalist for their professional integrity. As of 30 June, no other newspaper and media outlet in Belgium had published anything about the court decision acquitting the movement of Jehovah's Witnesses of covering up sexual abuse charges.

Four years after the publicized unfounded charges, most Belgian citizens will unfortunately go on believing that there were institutional cases of sexual abuse in Jehovah's Witnesses congregations and that the association of Jehovah's Witnesses was covering up such facts. The Belgian court said these accusations were unfounded.

Would the Belgian media outlets have kept silent if a Catholic institution, a Jewish organization or a Muslim community had been acquitted of serious crimes after a court would have ruled that the charges, largely publicized in the media, were unfounded?

Photo: *Headquarters of Jehovah's Witnesses in Belgium - Credit: HRWF*

State and religion in Belgium: the slap of the European Court

HRWF (06.27.2022) - For decades, Anderlecht, a commune of Brussels, has been famous for its football club. Since 5 April 2022, it has been becoming famous for a decision of the European Court in Strasbourg which unequivocally denounces the historical system of state recognition of religions and belief systems (philosophical movements) as incompatible with the international standards regulating freedom of religion or belief. We are sharing hereafter an analysis of the ECtHR decision by Cathérine Van de Graaf published in "Strasbourg Observers" under the title: "Belgium reprimanded in Anderlecht Christian Assembly of Jehovah's Witnesses and Others: the procedure for recognition of a religion lacks minimum guarantees of fairness." Dr. Cathérine Van de Graaf is a post-doctoral researcher at the Academy for European Human Rights Protection (University of Cologne) and visiting professor at the Human Rights Centre (Ghent University).

Strasbourg Observers (14.06.2022) - https://bit.ly/3u53wxR **-** *Anderlecht Christian Assembly of Jehovah's Witnesses and Others* v. Belgium is one of these judgments where you are reading the reasoning of the European Court of Human Rights (hereinafter: Court or ECtHR) and you think you know the direction it is going, but it then takes a turn that nobody saw coming, perhaps least of all the Belgian government. *In casu*, what starts as a judgment on the validity of a denial of an exemption of property tax then morphs into a serious slap on the wrist for Belgium and its system for the recognition of religions and non-religious worldviews. Once recognised, they can count on substantial financial support from the State. Yet, the Court has now found that the procedure towards such recognition lacks minimum guarantees of fairness and does not afford sufficient safeguards against discrimination.

The Belgian system of recognising religions

Before going into the specific facts of the case and the discussion of the judgment, I will briefly sketch the Belgian context. Unlike France, the United States or Turkey, Belgium does not have a strict church/state separation. Nor does it have a system of partial separation with a state church like the United Kingdom or Sweden. What we find in Belgium instead is a system of active state support to various religions and worldviews. There are different reasons for this active state support: compensation for the loss of income as a result of the confiscation of church property shortly after the French Revolution, the importance of religion for societal stability and cohesion, the exercise of a certain level of control (in countering extremism, for instance) and ensuring the positive freedom of religion.

When assessing the compatibility of such a system with the liberal idea of state neutrality, Franken and Loobuyck found that, at first sight, a hands-off approach seems more neutral than one of active state support. If, however, a system of support is based on clear, objective, and relevant criteria that ensure equal opportunities and equal treatment of the different religions and worldviews, it can be equally neutral. Yet, in Belgium, both the criteria on which the support is based as well as the equal division of

said support have been subject of scrutiny. Currently, five formal criteria on which state support depends have been distilled from answers of several ministers of justice to different parliamentary questions (listed in § 17 of the judgment). These criteria are: 1) bringing together a relatively large number of adherents (several tens of thousands), 2) being structured with a representative body that can represent the religion in its relation with civil authorities, 3) presence in the country for a fairly long period (several decades), 4) offering some social benefit, and 5) not including any activity that is contrary to public order. Clearly, these criteria are not very straightforward and can – as foreseen by the great Jan Velaers – lead to legal insecurity. Also, regarding the second criterion in particular, it has been asked whether certain religions were forced to fit into a straitjacket inspired by the organisation of the Catholic church (see here) and subject themselves to a higher degree of state control than others (see here).
Recognition is a competence of the Federal government (Article 6 § 1, VIII, 6° of the Special Law for the Reform of Institutions).

When a religion or non-religious worldview wants to obtain recognition, they submit their file to the Minister of Justice. Only after, when this part is finalised, will it go to the Chamber of Representatives. Yet, no prescribed process is included in the Constitution or any law for that matter. Recognition has always been the result of *ad hoc*decisions. After such a positive decision, a recognised religion or non-religious worldview enjoys many privileges. For instance, salaries and retirement of "ministers of religion" and "representatives of organisations recognized by the law as providing moral assistance" are paid by the State (Articles 181 and 182 of the Belgian Constitution). Additionally, recognised religions and worldviews can organise courses in public schools at the community's expense and all pupils of school age have the right to follow such religious education (Article 24). Besides the recognition process, the criteria used to calculate the amount of financial support are regularly criticised as well (see, for instance, Franken).

The facts of the case

The applicants are nine associations of Jehovah's Witnesses scattered across different municipalities of the Brussels Capital Region and established under Belgian law. In these municipalities, they own properties which are used for the public worship of their religion. Before the 2018 fiscal year, they were exempt from paying property tax on their real estate used for the public exercise of their religion. Yet, an amendment of the Income Tax Code of the Brussels-Capital Region of 23 November 2017 narrowed the enjoyment of said exemption down to properties in the Region used for public worship by "recognised religions" only (Article 12). (Certain taxes belong to the competence of the federal entities of Belgium, such as regions, communities and municipalities.) The applicants could thus no longer claim the tax benefit they had enjoyed up until that moment.

On 6 June 2018, these nine associations brought an action to the Belgian Constitutional Court seeking an annulment of the disputed provision, claiming a breach of Articles 10 and 11 (principle of equality and non-discrimination), 19 (freedom of religion) and 172 (equality before the tax authorities) of the Belgian Constitution, in conjunction with Articles 9, 11 and 14 of the Convention and Article 1 of Protocol No. 1 to the European Convention on Human Rights (hereinafter: Convention or ECHR).

In the judgment of 14 November 2019, the Constitutional Court dismissed their application. First, it held that the criterion of recognition of worship was objective and relevant to the legitimate aim of combating tax evasion. Second, the Constitutional Court found that the applicants did not demonstrate that the financial impact suffered was of such a nature that it would threaten their internal organisation, functioning and religious activities. Third, it considered that the criterion of recognition of the religion was not disproportionate since non-recognised religions could apply for recognition of their

religion. Finally, it stressed that the procedure for recognising religions, criticised by the applicants, was not governed by the provision challenged before it, so that it was not the subject of the present action.

Dissatisfied with the outcome, these nine associations challenged this judgment at the ECtHR. The applicants alleged a violation of Article 9 in conjunction with Article 11 of the Convention, Article 1 of Protocol No. 1 and Article 14 of the Convention in conjunction with Articles 9 and 11 and Article 1 of Protocol No. 1 to the Convention.

The reasoning of the Court

In what follows, the reasoning of the Court in *Anderlecht Christian Assembly of Jehovah's Witnesses and Others* will be explained in detail. The Court first found that the primary question raised was one of differential treatment between recognised and non-recognised religions. Thus, priority was given in its investigation to the complaint under Article 14 (in conjunction with Articles 9 and 11 of the Convention and Article 1 of Protocol No. 1 to the Convention). Then, it argued that the complaint under Article 14 in conjunction with Article 11 was manifestly ill-founded and must be rejected.

a) As to the applicability

The Court discussed whether the facts of the case fell within the scope of Article 9 and Article 1 of Protocol No. 1. The Court argued that the tax on property owned by the applicants represented between 21.4% and 32% of the annual operation cost of the buildings, depending on the years concerned. An imposition, which the Court deemed significant, considerably affects the applicants' functioning as religious communities. The Court observed that the national authorities themselves linked the exemption from the impugned tax to the public exercise of religion, implicitly but necessarily considering that such an exemption contributes to the effective exercise of freedom of religion. It added:

"If the State has gone beyond its obligations and created additional rights which fall within the broader scope of the rights guaranteed by the Convention as a whole, it cannot, in applying those rights, adopt discriminatory measures under Article 14. […] Therefore, where national authorities grant tax privileges to certain communities without necessarily being obliged to do so under Article 9 of the Convention, they must also comply with Article 14 of the Convention." (§ 39) (As the judgment is only available in French, all included quotes are the author's own translation.)

As the granting of a tax exemption would have lawfully allowed the applicants not to pay the tax, not getting the exemption falls within the scope of Article 1 of Protocol No. 1.

b) As to the existence of a difference in treatment

Next, the Court observed that the parties agreed on the existence of a difference in treatment between religious communities, which are deprived, in the absence of recognition, of the benefit of the exemption from property tax and other religious communities, which can continue to benefit from it once they are recognised. Yet, it found that the situation of the applicants is comparable to that of communities whose religion is recognised and whose buildings are used for the public exercise of a religion.

c) As to the pursuit of a legitimate aim

The Court verified whether the difference in treatment at issue is based on an objective and reasonable justification. For example, the fight against tax fraud, put forward by

Belgium, was considered a legitimate objective by the Court, although there was no proof that the applicants were ever suspected of having abused the tax exemption.

d) Whether there is a reasonable relationship of proportionality

The Court then went on to conduct a proportionality test. It started by stating that by choosing recognition of religious affiliation as a criterion of distinction for exemption from property tax, the authorities of the Brussels-Capital Region have opted for a criterion which is objective in nature and which may be relevant to the aim pursued. The choice of this criterion falls within the margin of appreciation in the context at hand. The fact that this same criterion is not used in the Flemish or Walloon Region does not make it discriminatory.

Although the Court recognised that the applicants' complaints about the serious shortcomings in the recognition procedure have not been subjected to constitutional review, it still went on to ascertain whether the federal recognition system offers enough guarantees against discriminatory treatment contrary to Article 12 ECHR. The Court observed that neither the criteria nor the procedure for recognition by the federal authority are laid down in "a text that satisfies the requirements of accessibility and foreseeability, which are inherent in the concept of the rule of law that governs all the articles of the Convention" (§ 51).

The Court noted that the recognition of a religion in Belgium is based on criteria which were identified by the Minister of Justice only in the course of parliamentary questions addressed to him. These have been worded in particularly vague terms which do not offer a sufficient degree of legal certainty. Additionally, the procedure for recognising religious denominations is not governed by any text, be it legislative or even regulatory, so that an application for recognition is not accompanied by any guarantee, either as regards the actual adoption of the decision on such an application or as regards the process preceding that decision and the appeal which might, if necessary, be lodged against it subsequently. Another issue is the lack of time limits that govern the procedure. The Court referred in this regard to the backlog in processing the applications for recognition of the Belgian Buddhist Union and the Hindu Forum of Belgium, that were lodged in 2006 and 2013, respectively.

Finally, the Court added that recognition can only occur on the initiative of the Minister of Justice and even when that happens it is contingent on the discretion of the legislature. It concludes that:

"Such a system inherently entails a risk of arbitrariness and religious communities cannot reasonably be expected to submit to a process which is not based on minimum guarantees of fairness and does not ensure an objective assessment of their application in order to benefit from the tax exemption at issue" (§ 54).

The Court concluded that the system to obtain recognition does not offer sufficient guarantees against discriminatory treatment and, thus, the difference in treatment to which the applicants are subjected lacks objective and reasonable justification.

As such, the judges unanimously found a violation of Article 14, in conjunction with Article 9 and Article 1 of Protocol No. 1 to the Convention.

What is next for Belgium?

What the current judgment made very clear is that the recognition procedure in its current form is not in line with the protection standard offered by the Convention. How

will Belgium set the record straight? The Court ruled that the process was flawed to such a degree that religious communities could not reasonably be expected to submit themselves to it. This can be considered a serious call to action for Belgium. Once the judgment becomes final, the initiation of the execution process will hopefully prompt a substantial revision of the current flawed system. However, that such a revision will not be easy is demonstrated by the various failed attempts that have been undertaken in the past years to optimise (and even abolish) it (a list of proposed bills can be found in footnote 2 here).

It seems that to rectify the current situation the legislative power itself will have to determine the precise criteria for recognition. In an opinion of 26 April 2011 on one of the abovementioned failed attempts at optimisation, the Belgian Council of State emphasized that "the question is, however, whether the recognition of the religions […] is not rather entirely a matter for the legislator, i.e. on the basis of criteria established by it". So, it does not appear that the judgment in its current form could be executed without passing through that first crucial step. Yet, as the Minister of Justice already stated in response to the judgment, this is a politically very sensitive matter. It opens the door to a broader debate on the division of the state support as well as the question of whether it is desirable to have state support for religion to begin with. Right after the judgment, the political party of the Minister proposed a reform that would allow citizens to choose the religion they would want to support. Such a very thorough reform would require an amendment of the Constitution and will thus not be taking place in the near future.

Photo: European Court of Human Rights Strasbourg-France

Belgian lawmakers scrap bill to ban kosher, halal slaughter in Brussels

BY CNAAN LIPHSHIZ

JTA (17.06.2022) - https://bit.ly/3HMWmEf - Belgian promoters of a ban on kosher and halal slaughter of animals saw their bill defeated in Brussels, the seat of the European Union and the only region of Belgium where the practice is still legal.

The vote Friday in the parliament of the Brussels-Capital Region — one of three states that comprise the federal kingdom of Belgium — was on whether to scrap a bill proposing a ban. The bill, submitted by liberal and environmentally-centered parties, had been voted down in a committee that kicked it back to parliament.

Out of the 89 lawmakers in the region's parliament, 42 voted in favor of scrapping, 38 voted against scrapping, eight abstained and one was not present, preserving for now the legality of kosher and halal slaughter in Brussels, the news site 7sur7 reported.

Had a majority of lawmakers voted against scrapping the bill, it would have come up to a vote in parliament, where lawmakers from diverse ideological backgrounds agree that any slaughter of an animal without prior stunning should be outlawed.

A majority of lawmakers in the parliaments of Belgium's other states — the French-speaking Walloon Region and the Dutch-speaking Flemish Region — voted in favor of

banning the practice in 2017 and 2019, respectively. A ban in Brussels would have had Belgium join a handful European Union states where halal and kosher slaughter of animals are totally illegal.

Brussels, a binational city that is the headquarters of multiple central organs of the EU, is often thought of as a symbol for the bloc. Throughout Western Europe, nationalists and progressives have found unity over a desire to ban kosher and halal slaughter.

Multiple parties with a perceived bias against Islam, and at times also Judaism, support banning kosher and halal slaughter because they see the practices as signs of an unwanted foreign presence. Those parties also tend to support banning the non-medical circumcision of boys, which both Muslims and Jews are commanded to perform.

Additionally, left-leaning parties with secularist and humanistic agendas oppose both ritual slaughter of animals and the circumcision of boys as unethical and unnecessary.
Rabbi Pinchas Goldschmidt, the president of the Conference of European Rabbis, welcomed the vote in a statement.

"These unsolicited bans have a dark historical precedent; rather than ushering in a future of increased animal welfare, these alarmingly legislative prohibitions are instead a harsh, destructive step backwards," he wrote.

Photo: Parliament building of Brussels-Capital Region

Jehovah's Witnesses' shunning can be freely taught and practiced in Belgium

The Court of Appeal of Ghent criticizes the first degree judgement and concludes shunning is protected by religious liberty principles.

By Massimo Introvigne

Bitter Winter (20.06.2022)- https://bit.ly/3n6c8jU - Bitter Winter discussed in several articles the controversial criminal decision rendered by the Court of Ghent, Belgium, on March 16, 2021, which stated that suggesting that current members of a religious organization do not associate with ex-members who have been disfellowshipped or have left the organization amounts to discrimination and incitement to hatred, and should be forbidden in Belgium.

CESNUR, the parent organization of Bitter Winter, organized a webinar on the Ghent decision, where several leading scholars of both the Jehovah's Witnesses and religious liberty presented papers. They all agreed that the Ghent judges had created an extremely dangerous precedent for religious liberty in general, and expressed the hope that the decision can be overturned on appeal.

Happily, on June 7, the Court of Appeal of Ghent has agreed with these scholars, and completely overturned the first degree decision. Indeed, the appeal judges criticized how the criminal investigation was conducted, noting that only disgruntled ex-members of the Jehovah's Witnesses and opponents were interrogated. Representatives of the Jehovah's Witnesses in Belgium were not heard, despite the fact that they had made themselves

available. The court also noted the role of the federal Belgian anti-discrimination agency UNIA, which acted as a civil party and whose arguments the appeal judges also answered.

The appeal court noted that the first degree decision was based on the Belgian Anti-Discrimination Act, which prohibits discrimination and harassment, although the first degree judges also argued that the religious liberty of the disfellowshipped members protected by the Belgian Constitution and the European Convention on Human Rights had been violated.

The Court of Appeal first reiterated that collective freedom of religion of religious organizations is also protected, and according to a unanimous case law of the European Court of Human Rights (ECHR) it includes the right of excluding members based on the organization's own theology and criteria. That somebody is no longer one of the Jehovah's Witnesses is announced in congregational meetings. Freedom of religion, however, "also implies the right to make known to the devotees who does or does not belong to the religious community," and the Jehovah's Witnesses' announcement policy is thus also protected.

The parties do not dispute, the appeal judges said, that "the exclusion policy stems from a religious conviction or a rule of faith, more specifically an interpretation—specific to the Jehovah's Witnesses—of certain Biblical texts." This seems to be obviously protected by freedom of religion. However, the first degree decision and UNIA argued that religious freedom is "not unlimited."

As a general principle, the appellate court stated, this is correct. The European Convention on Human Rights allows for limitation of religious liberty "necessary in a democratic society." However, "the protection granted by Article 9 of the European Convention on Human Rights is quite comprehensive, and the margin of appreciation of the authorities—in this case, the criminal courts—correspondingly small."

In the case "Jehovah's Witnesses of Moscow and others v. Russia," the ECHR, the appeal court noted, ruled that a religious conduct that causes alienation of family members with different religious beliefs is also protected by Article 9. The appeal court also quoted the landmark ECHR decision "Sindicatul," which stated that there is no "right to dissent and dissidence" within a religious organization, and the latter is free to exclude dissidents. Individuals' religious liberty is still protected, because they can leave the organization and join or establish another religious group, as several of the civil parties in fact did.

The appeal court judges also noted that the law cannot compel members of a religious community to associate with those who have left their community if they do not wish to do so. However, UNIA argued that in the case of the Jehovah's Witnesses the shunning policy violates the religious liberty of the individual members, for whom leaving becomes difficult or even impossible because they know that if they leave they will be shunned.

The appeal judges observed that "almost all the civil parties and registered injured parties in the case are former members of the Jehovah's Witnesses, which seems difficult to reconcile with the argument that the shunning policy makes it impossible or unreasonably difficult to leave this faith community." Indeed, the appeal court noted, many leave the Jehovah's Witnesses every year, and are not prevented from doing so by their knowledge of the shunning policy.

UNIA also argued that the religious liberty of those who remain in the Jehovah's Witnesses' organization is violated, because they are compelled to follow the shunning policy and, if they do not comply, they are disfellowshipped. Based on documents and witnesses, the appeal court doubts that such is factually the case in all instances where the shunning policy is not complied with.

More importantly, the appeal judges note that teaching and practicing shunning, and even making it an essential policy of a religious organization (which also happens, the appeal court observes, in religions other than the Jehovah's Witnesses, including within Orthodox Judaism and several schools of Islam), cannot be prohibited per se under Belgian anti-discrimination law interpreted within the framework of the European Convention of Human Rights. Courts can certainly examine whether ex-members are "stalked, harassed, bullied, or threatened" by members in good standing. However, this is not happening in the case of the Jehovah's Witnesses, who merely practice a form of "passive social avoidance."

The first degree court quoted a lecture given in 2013 by an elder who vituperated against the "apostates." He did not incite to violence either, the appeal judges observed, and he distinguished between "apostates," i.e., ex-members who convert themselves into militant opponents of the Jehovah's Witnesses, and those who simply leave the organization but do not devote their life to publicly attacking it. The elder (my comment, not the judges') indeed correctly applied the prevailing sociological concept of "apostates."

While UNIA insisted that shunning condemns its "victims" to a total "social isolation," the appeal judges countered that this is not the case. The Jehovah's Witnesses are a tiny percentage of the Belgian population. The shunned ex-members are still free to associate with the large majority of Belgian citizens who are not Jehovah's Witnesses.

There is a special case, the appeal judges said, that needs to be examined. While relations of friendship are not constitutionally protected, and everybody is free to break them and refuse to interact with former friends, article 22 of the Belgian Constitution offers a special protection to relations between spouses and between parents and minor children. These relations can be broken only by following procedures regulated by the law, which provides for divorce and care of minor children when the spouses separate and in other cases.

The appeal judges noted that the Jehovah's Witnesses teach that marital relationships between cohabiting husbands and wives should continue even when one of the spouses is no longer one of the Jehovah's Witnesses, and the care of minor children should also continue. In this case, "shunning" only means that the ex-member no longer participates in the family's religious activities.

The appeal court did acknowledge that some ex-members testified that after they left the Jehovah's Witnesses they were mistreated by their spouses and a divorce followed, but it observed that it is unclear whether in these cases religious problems were the only cause of the disagreement. At any rate, the appeal judges noted, nobody who so wishes can be prevented from filing for divorce.

The appeal court concluded that teaching and practicing the shunning policy is lawful in Belgium, and cancelled the criminal penalties imposed on the Jehovah's Witnesses by the Court of Ghent. It is significant that the appeal judges rendered their decision on the

same day when the European Court of Human Rights declared that the 2017 "liquidation" of the Jehovah's Witnesses in Russia was unlawful. The Court of Appeal of Ghent correctly applied the principles established by the ECHR in its numerous decisions about the Jehovah's Witnesses, restored the rule of law, and affirmed that, unlike in Russia, in democratic societies courts protect the corporate liberty of religious communities to organize themselves as they deem fit.

Photo:: The Court of Appeal of Ghent. Credits.

Jehovah's Witnesses acquitted on appeal for alleged discrimination and incitement to hatred

Willy Fautré, Human Rights Without Frontiers

The European Times (16.06.2022) – https://bit.ly/39urLyF - On 7 June 2022, the Ghent Court of Appeal acquitted the Belgian Association of Jehovah's Witnesses of all charges of discrimination and incitement to hatred, after they had surprisingly been fined 96,000 euros by the Ghent Criminal Court in March 2021.

In 2015, a former Jehovah's Witness went to the public prosecutor's office, claiming that once members left the community, they were ostracised and completely socially isolated by order of the organization.

The public prosecutor's office in Ghent had summoned Jehovah's Witnesses on four counts: incitement to discrimination on the basis of religious beliefs against a person, and against a group, and incitement to hatred or violence against a person, and against a group.

In the first instance, the Belgian Association was found guilty of inciting discrimination and hatred or violence against former members who had left the community but it appealed the decision.

The Court of Appeal of Ghent hereby confirmed on 7 June 2022 that Jehovah's Witnesses' biblical practice of limiting or avoiding contact with former followers, also called shunning, was legal and does not incite discrimination, segregation, hatred or violence.

Human Rights Without Frontiers largely covered the judicial proceedings in 2021 in Bitter Winter, addressing the following issues:

- Timeline
- The trial
- Who are the claimants?
- The statements of the claimants
- The position of the CCJW
- The verdict and its consequences

Ghent Appeal Court decision in line with Belgian and European jurisprudence

The decision on appeal is in line with the opinion of leading scholars who have followed this case. It is also in conformity with previous rulings by Belgian courts of appeal and the Court of Cassation on the same issue.

On 10 January 2012, the Court of Appeal of Mons rejected the discrimination claim of J.L., a former Jehovah's Witness.
On 5 November 2018, the Court of Appeal of Brussels confirmed the decision of the Court of Appeal of Mons and rejected again the said discrimination claim.
Last but not least, on 7 February 2019, the Court of Cassation also rejected the appeal against the judgment of the Court of Appeal of Brussels.

The European Court of Human Rights had also previously emphasized that determining doctrinal or behavioral standards to which members of a religious community must conform in their private lives is a feature common to many religions.

Referring to these well-established legal principles, Holly Folk, associate professor at Western Washington University, observed as well: "It is not the role of governments to intervene in the choices that consenting adults make. And the reality is that many religions have a norm of no longer having strong ties to people who leave their religious traditions."

Verdict: Charges not proven and claims of the civil parties unfounded

About the criminal charges, the Court of Appeal of Ghent declared that **the charges against the Christian Community of Jehovah's Witnesses had not been proven** and discharged it from prosecution.

About the civil field, **the Court of Appeal dismissed as unfounded the claims of the civil parties and the Interfederal Centre for Equal Opportunities and Opposition to Discrimination and Racism,** a public institution having taken sides against Jehovah's Witnesses in the case.

Whilst the condemnation of Jehovah's Witnesses in first instance was widely covered by printed media, radio and TV, their acquittal was ignored by almost all of them. The media and journalists should avoid stigmatization of any religious group and sensationalism but devote the same attention and importance to a final acquittal.

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/3Odn9wm - 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*

Jehovah's Witnesses in Brussels receive €5,000 compensation for discrimination

Credit: Belga

Brussels Times (09.04.2022) - https://bit.ly/362wbem - The Belgian State must pay nine Brussels-based Jehovah's Witness associations a total of €5,000 in damages, because they are not a recognised religion in Belgium and therefore miss out on a tax exemption in Brussels.

The case was taken to court by nine associations of Jehovah's Witnesses after an amendment of the Brussels legislation, reports **De Standaard**. Since 2017, non-recognised religions in Belgium are no longer exempt from property tax on their prayer houses.

Recognised churches, mosques or synagogues, on the other hand, no longer have to pay the real estate tax – a fiscal benefit for recognised religions. For this, Brussels applies the recognition system of the Federal Government.

But this system lacks transparency: there are no clear legal criteria, only the Justice Minister can initiate the recognition procedure and approval is decided in the Parliament. That fosters discrimination, **according to a binding ruling by the European Court of Human Rights (ECHR) on Tuesday**.

Within the next three months, the Belgian State must pay the Brussels associations a total of €5,000 in damages to cover their legal costs. As they had not yet paid their property tax, this will not need to be reimbursed.

Professor of Discrimination Law Jogchum Vrielink (Université Saint-Louis) called the ruling "a legal bombshell." He told **De Standaard** that "the core of the entire support system, the access to recognition, is being undermined."

To avoid more convictions and compensations, Belgium will have to quickly work on a legal framework for the recognition of religions.

In 2004, the communities and the federal level already agreed to do so, but no changes have been made. Justice Minister Vincent Van Quickenborne told the newspaper that he will work on such a legal framework. "The judgement is clear."

Jehovah's Witnesses win in Strasbourg in a discriminatory taxation case

Failure to grant congregations of Jehovah's Witnesses exemption from property tax in the Brussels-Capital Region since 2018 was discriminatory (Assemblée Chrétienne des Témoins de Jéhovah d'Anderlecht and Others v. Belgium - Application 20165/20). See the unofficial English translation HERE

Registrar of the European Court (05.04.2022) - https://bit.ly/3ua7CFj - In today's **Chamber** judgment[1] in the case of **Assemblée Chrétienne Des Témoins de Jéhovah d'Anderlecht and Others v. Belgium** (application no. 20165/20) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 14 (prohibition of discrimination) read in conjunction with Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights **and with Article 1 of Protocol No. 1 (protection of property)** to the Convention.

The case concerned congregations of Jehovah's Witnesses which complained of being denied exemption from payment of a property tax (*précompte immobilier*) in respect of properties in the Brussels-Capital Region used by them for religious worship. According to an order of 23 November 2017 enacted by the legislature of the Brussels-Capital Region, as of the 2018 fiscal year the exemption applied only to "recognised religions", a category that did not include the applicant congregations.

The Court held that since the tax exemption in question was contingent on prior recognition, governed by rules that did not afford sufficient safeguards against discrimination, the difference in treatment to which the applicant congregations had been subjected had no reasonable and objective justification. It noted, among other points, that recognition was only possible on the initiative of the Minister of Justice and depended thereafter on the purely discretionary decision of the legislature. A system of this kind entailed an inherent risk of arbitrariness, and religious communities could not reasonably be expected, in order to claim entitlement to the tax exemption in issue, to submit to a process that was not based on minimum guarantees of fairness and did not guarantee an objective assessment of their claims.

Principal facts

The applicants are nine associations established under Belgian law which have properties in the Brussels-Capital Region used for public worship.

On 23 November 2017 the legislature of the Brussels-Capital Region amended the Income Tax Code and restricted the exemption from property tax in respect of properties in the region used for public worship to "recognised religions". The amendment took effect from the 2018 fiscal year onwards. As the applicant associations, nine congregations of Jehovah's Witnesses, did not belong to a "recognised religion", they were no longer able to claim the exemption to which they had previously been entitled in the Brussels-Capital Region. They applied to the Constitutional Court seeking the setting-aside of the provision in question, and their application was rejected in November 2019. The Constitutional Court found that the financial impact on the applicant associations was not such as to jeopardise their internal organisation, functioning or religious activities. It also found that the requirement for the religious denomination to be recognised was not disproportionate since faiths that were not recognised could apply for recognition.

In Belgium, religious denominations have the possibility of lodging an application for recognition, which is optional rather than compulsory. The recognition of religions is a federal matter. The procedure for recognition is not enshrined in legislation but is derived from administrative practice. According to the replies given by the Minister of Justice to MPs' questions, a faith must satisfy five criteria to qualify for recognition. The application has to be made to the Minister of Justice, who decides whether the criteria are satisfied. In the event of a favourable decision, the Minister may table draft legislation on recognition in the House of Representatives, as recognition is a prerogative of the legislature. There are currently six recognised religious denominations in Belgium: Catholicism, Protestantism, Judaism, Anglicanism, Islam and the Orthodox faith. Applications for recognition of Buddhism and Hinduism were lodged in 2006 and 2013 respectively, but the authorities have not given a decision on them to date.

Complaints, procedure and composition of the Court

The applicant associations alleged that they had been the victims of discrimination on account of the fact that the new legislation in the Brussels region made exemption from property tax (*précompte immobilier*) contingent on belonging to a "recognised religion". They relied, in particular, on Article 14 (prohibition of discrimination) of the Convention, read in conjunction with Article 9 (freedom of thought, conscience and religion) and with Article 1 of Protocol No. 1 (protection of property) to the Convention.

The application was lodged with the European Court of Human Rights on 14 May 2020. Judgment was given by a Chamber of seven judges, composed as follows:

Georges **Ravarani** (Luxembourg), *President*,
Georgios A. **Serghides** (Cyprus),
María **Elósegui** (Spain),
Anja **Seibert-Fohr** (Germany),
Andreas **Zünd** (Switzerland),
Frédéric **Krenc** (Belgium),
Mikhail **Lobov** (Russia),
and also Olga **Chernishova**, *Deputy Section Registrar.*

Decision of the Court

Article 14 in conjunction with Article 9 of the Convention and Article 1 of Protocol No. 1

The applicant associations alleged that the tax in question was equivalent to 23% of the donations they received, which constituted their sole source of funding. It also transpired from the accounting documents produced by the applicantnassociations that the amount payable by way of this tax accounted for a substantial proportion of the annual running costs connected with their buildings. Overall, their property tax they were required to pay represented betwwen21.4% (41,984.23 euros for all the applicant associations) and 32% (42,830.25 for all the associations) of those costs, depending on the year.

In the Court's view, these amounts were not insignificant and had a considerable impact on the operation of the applicant associations as religious communities. The facts of the case therefore came within the ambit of Article 9 of the Convention and Article 1 of Protocol No 1 to the Convention.

As to whether there had been a difference in treatment, the Court noted that in enacting the measure in question, the legislature of the Brussels-Capital Region had sought to prevent abuse arising out of the exemption from property tax of premises that were in fact designated for us by "fictitious" religious denominations. It observed that there was nothing in the case submitted to the Court to suggest that the applicant associations had committed, or been suspected of committing, any fraud in benefiting in the past from the exemption of property tax in respect of their places of worship. Nevertheless, the prevention of tax fraud was an aim whose legitimacy *per se* could not be called into question by the Court.

As to whether the means used had been proportionate to the aim pursued, the Court considered that in using the recognition of a religious faith as the basis for distinguishing between claims for exemption from property tax, the authorities had opted for an objective criterion that was potentially relevant with regard to the aim pursued. In itself, the choice of such a criterion fell within the margin of appreciation left to the national authorities in the sphere under consideration.

The government argued that it was open to the applicant association to apply for recognition of their faith at federal level in order to continue to claim exception in the Brussels-Capital Region. The applicant associations countered that it would be pointless to apply, given the serious shortcomings in the procedure for claiming recognition.

The Court noted in that connection that neither the criteria for recognition nor the procedure leading to recognition of a faith by the federal authority were laid down in an instrument satisfying the requirements of accessibility and foreseeability, which were inherent in the notion of the rule of law governing all the provisions of the Conventions.

It observed, firstly, that recognition of a faith was based on criteria that had been identified by the Minister of Justice only in reply to questions put by members of parliament. Moreover, as they were couched in particularly vague terms they could not, in the Court's view, be said to provide a sufficient degree of legal certainty.

Secondly, the Court noted that the procedure for the recognition of faiths was likewise not laid down in any legislative or even regulatory instrument. This meant, in particular, that the examination of applications for recognition was not attended by any safeguards, with regard either to the actual adoption of the decision on such applications or to the process leading to the decision and the possibility of appealing against it subsequently. In particular, no time-limits were laid down for the recognition procedure procedure, and no decision had yet been taken on the applications for recognition lodged by the Belgian Buddhist Union and the Belgian Hindu Forum in 2006 and 2013 respectively.

Lastly, recognition was only possible on the initiative of the Minister of Justice and depended thereafter on the purely discretionary decision of the legislature. A system of

this kind entailed an inherent risk of arbitrariness, and religious communities could not reasonably be expected, in order to claim entitlement to the tax exemption in issue, to submit to a process that was not based on minimum guarantees of fairness and did not guarantee an objective assessment of their claims.

In sum, since the tax exemption in question was contingent on prior recognition, governed by rules that did not afford sufficient safeguards against discrimination, the difference in treatment to which the applicant associations were subjected had no objective and reasonable justification. There had therefore been a violation of Article 14 of the Convention, read in conjunction with Article 9 of the Convention and with Article 1 of Protocol 1 to the Convention.

Just satisfaction (Article 41)

The Court held, by a majority (6 votes to 1), that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecunary damage sustained by the applicant associations. It also held, unanimously, that Belgium was to pay the applicant association 5,000 euros (EUR) in respect of costs and expenses.

Separate opinion

Judge Serghides expressed a partly dissenting opinion which is annexed to the judgment.

Photo: European Court of Strasbourg
