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## **Why the Oslo district court decision against Jehovah's Witnesses is wrong**

***It claims that the practice of shunning illegally prevents adults and minors from leaving the religious organization. This claim is false.***

*By Massimo Introvigne*

[Bitter Winter](#) (07.03.2024) - On March 4, 2024, the Oslo District Court ruled against the Jehovah's Witnesses and upheld the decisions of the government and the State Administrator of Oslo and Viken who denied the Jehovah's Witnesses the state subsidies they had peacefully received for thirty years based on Section 16 of the Norwegian Constitution ("All religious and philosophical communities must be supported on an equal footing"). Registration as a religious organization of the Norwegian Jehovah's Witnesses under Law No. 31 of April 24, 2020, was also denied.

The District Court is aware that this was a difficult decision with serious consequences. It observes that at least, under Law No. 31 the lack of registration would not prevent the Norwegian Jehovah's Witnesses to continue their activities and to teach what they teach everywhere in the world (except in a few totalitarian countries that have banned them, including Russia). The consequences of the non-registration are that they will not be eligible for state subsidies, nor will they be able to celebrate legally valid marriages.

State subsidies in Norway are not a gift. Since the Church of Norway, a Lutheran denomination, is a state church supported by the government with transfers of money proportional to the number of its members, the Constitution mandates that to respect the principle of equality other religions should receive the same proportional subsidies. The judge himself acknowledges that not being able to celebrate legal marriages within one's religious community may be perceived as discriminatory. He also agrees that the decision may have a broader "stigmatizing effect."

Yet, the judge believes that all these admittedly important factors "are not weighty enough" when compared to the fact that the Jehovah's Witnesses, by practicing shunning, violate in his opinion their members' freedom to change their religion. Shunning is the Jehovah's Witnesses' teaching recommending that members do not associate with those who have been disassociated as unrepentant of serious sins or have publicly disassociated themselves from the organization (as opposed to simply becoming inactive). Cohabiting relatives are not shunned, although they are excluded from the family's religious activities.

Here, I find the decision slightly confusing. At times, it seems that the judge regards the shunning both of adult and minor ex-members as grounds for his decision. In other passages, however, he seems to acknowledge that Law no. 31 includes a note that “if adult members of their own free will follow rules that restrict their rights and freedoms, they cannot be considered violations... Essentially, this also applies even if the obligations can be considered harmful.” In its conclusion, the decision cautiously focuses on the alleged violation of the “right to opt out” of children.

The decision notes that the European Convention on Human Rights also guarantees the right to leave a religious organization. The judge is persuaded that Jehovah’s Witnesses in practice are prevented from leaving since they know that, if they leave, they will be shunned.

As mentioned earlier, it is at times unclear whether in the end the objection only concerns the shunning of minors or also extends to adults. In the second case, the decision is patently absurd and [runs counter to dozens of decisions](#) on shunning by jurisdictions in other countries, including supreme courts. They have noted that religious organizations have the right to self-organize themselves as they deem fit. Christian groups also have the right to interpret the Bible in their own way. The interpretation by the Jehovah’s Witnesses in this case is not even particularly original. Clearly, something similar to the shunning they practice today is taught in 1 Corinthians 5:13 (“Expel the wicked person from among you”) and 5:11 (“Do not even eat with such people”), and 2 John 10–11 (“Do not take them into your house or welcome them. Anyone who welcomes them shares in their wicked work”). Others may suggest a non-literal interpretation of these passages, but it is not for secular courts of law to second-guess religious organizations on their interpretation of the Bible.

The main objection is, however, another. All human organizations have what sociologists call exit costs. By leaving a demanding but well-paid job I may gain more freedom but lose a good salary. The loss of the salary is my exit cost. Shunning is a typical exit cost. A spouse that decides unilaterally to divorce and to marry a different partner may be shunned by the abandoned ex-spouse, perhaps even by children. Members of a political party who quit and join a political organization with the opposite ideology may be shunned as traitors by their former comrades. Several religions, including Islam and branches of ultra-orthodox Judaism, treat “apostates” in a less charitable way than the Jehovah’s Witnesses.

The Norwegian judge’s argument is that to avoid the exit costs we are compelled to remain in a religious organization we may no longer believe in and are thus denied our right to leave it that is enshrined in the European Convention on Human Rights. But by applying the same argument, one can argue that marriage or political parties are also institutions that violate the rights of those who want to divorce or change political affiliation, since the exit costs may make them reluctant to leave.

Sociologists know that eliminating exit costs is not possible. They are an unavoidable feature of organized social life. Sometimes, one has the impression that the enemies of the Jehovah’s Witnesses are precisely asking courts of law to compel those who do not want to communicate with their former co-religionists to do it, which is not only unfair but impossible. More often, opponents argue that what they want is that judges would prevent the organization of the Jehovah’s Witnesses from teaching shunning. But that would put the judges in the strange position of interpreting 1 Corinthians and 2 John and substitute their opinion to the one of a religious organization in determining what these venerable Biblical texts “really” mean.

In the end, the Oslo judge found it safer to focus on minors who are first baptized and then, if they become unrepentant sinners, shunned. One can measure the cultural distance of the judge's own feelings from those of any conservative religious group, not only the Jehovah's Witnesses, when he wrote that he finds it "reasonable to expect" that most minors would engage in "sexual relations with their boyfriends or girlfriends." Apart from the cultural problems of the judge in understanding conservative religion, he accepts the opinion of an "apostate" ex-member that minors are baptized and become Jehovah's Witnesses when they are not mature enough to understand their obligations. But surely this is a drastic conclusion one cannot arrive at on the basis of one witness or a few anecdotal examples. What would be required is a quantitative study of those baptized as minors. Nothing similar is quoted in the decision. Although Norway has introduced a system of "youth punishment" with more lenient penalties for them, minors can be tried from criminal offenses from age 15. If they are mature enough in Norway to stand a trial before a criminal court, perhaps they are also mature enough to make informed religious decisions.

Once they have been baptized, minors run the risk of being shunned. Again, some opponents may have told the judge that this is not rare but among his numerous witnesses he found only one woman, now 40, who was disfellowshipped for a sexual offense and shunned as a minor, when she was 14, thus 26 years ago. She testifies that after a "short time" she was allowed to return to the fold by writing a "letter of regret" and attending a "short meeting." There is simply no evidence that disfellowshipping minors, with the consequence that they are shunned (but not by cohabiting relatives), is more than a rare occurrence.

It may be objected that a rare injustice would be an injustice, nonetheless. The answer is that, as the European Court of Human Rights (ECHR) stated in cases about the dissolution of organizations of the Jehovah's Witnesses in Russia in 2010 (Jehovah's Witnesses of Moscow and Others v. Russia) and 2022 (Taganrog LRO and Others v. Russia), denial or cancellation of registration of a religious organization is a serious measure with dramatic consequences for its members that states can adopt only in case of frequent and obvious crimes or misdemeanors. Shunning minors is not frequent, and the "principle of proportionality" between the fact and the sanction mentioned by the ECHR in its decisions about Russia would not be respected even if this was a crime.

But is it a crime? The judge himself admits that Jehovah's Witnesses, in good faith, perceive shunning as a "loving and meaningful arrangement," a painful medicine (painful, it should be added, for those who shun and not only for those who are shunned) that in many cases helps restoring family harmony and morality, as those shunned end up understanding their mistakes and repenting.

According to the decision, the violation of the UN Convention on the Rights of the Child would be in the fact that to minors, just as to adults, would be denied the freedom to "opt out" of the organization. Afraid of being shunned, minors who would want to quit in the end are dissuaded from leaving the Jehovah's Witnesses, which the judge thinks violates their right to change their religious affiliations. However, if the minors are mature enough to understand their obligations when they are baptized—and no evidence has been offered that this is not the case—they are aware of the exit costs just as the adults are. It is also false that a young boy or girl does not have experience of exit costs: he may decide to break a relation with a boyfriend or a girlfriend, quit a group of friends, leave a sport club, in extreme cases even leave the family and go live elsewhere. All these experiences have painful exit costs.

The decision argues that, because youth are especially fragile, the experience of shunning is more traumatic for them. This is possible, but youths also have greater flexibility in socialization than adults. Young Jehovah's Witnesses attend public schools, where after disfellowshipping they can continue to attend or newly enter into circles of friends who are not part of their former religion. The judge insists on the pain of not being able to communicate with grandparents who are Jehovah's Witnesses. However, grandparents may cut ties with their children and grandchildren for a variety of reasons, none of which courts of law can really correct. And even outside the Jehovah's Witnesses, minors who do something that is perceived by their relatives as a betrayal of the family or an expression of moral corruption may find themselves, for all practical purposes, "shunned."

It is difficult to disagree with professor of religious history, [Dag Øistein Endsjø](#), who told the leading Norwegian Christian daily newspaper "Vårt Land" that the verdict is against numerous decisions rendered in other countries, as well as against the case law of the European Court of Human Rights where it would have limited chances to survive. It is also against simple logic. Perhaps a higher Norwegian court will acknowledge it even before the court in Strasbourg.

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## **Jehovah's Witnesses go to trial against Norway after state registration is revoked**

***'It's certainly the most important trial about a religious freedom issue in Norway in decades,' said Willy Fautré, director of Human Rights Without Frontiers.***

[Religion News Service](#) (16.01.2024) With its [recognition of more than 700](#) registered faith communities, Norway is often admired as a bastion of religious freedom. But after Norway deregistered the Jehovah's Witnesses last year, some human rights experts say that reputation could be in question. Now, the Jehovah's Witnesses of Norway are suing the state for revoking their national registration and withholding state funds. According to Jehovah's Witnesses, they are the first religious group to lose their national registration in Norway.

The trial, which began Jan. 8, will determine whether some practices of the Jehovah's Witnesses violate Norway's Religious Communities Act or whether withdrawing the Jehovah's Witnesses' registration violates their right to freedom of religion and freedom of association, as guaranteed in the European Convention on Human Rights.

"It's certainly the most important trial about a religious freedom issue in Norway in decades," Willy Fautré, director of the Brussels-based organization [Human Rights Without Frontiers](#), told Religion News Service.

In January 2022, Valgerd Svarstad Haugland, the county governor of Oslo and Viken, in Norway, denied Jehovah's Witnesses state grants for the year 2021 in response to concerns about what she perceived as exclusionary practices. The Jehovah's Witnesses had received the grants, which currently amount to around \$1.5 million annually, for three decades. These funds are typically used for international disaster relief work and supporting religious activity in Norway, including translating literature and building

kingdom halls, according to Jørgen Pedersen, spokesperson for Jehovah's Witnesses in Norway.

In an [announcement](#) originally written in Norwegian, the county governor of Oslo and Viken claimed that Jehovah's Witnesses are forbidden to contact disfellowshipped members, as well as people who voluntarily dissociate, which can hinder a person's ability to freely withdraw from the group. She also argued that Jehovah's Witnesses may disfellowship children who have chosen to be baptized if they break the religious community's rules, a practice she said constituted "negative social control" and violated children's rights. These practices, the county governor argued, defy Norway's Religious Communities Act. "We have assessed the offenses as systematic and intentional, and have therefore chosen to refuse grants," the press release said.

In an email to RNS, Jehovah's Witnesses spokesperson Jarrod Lopes said Witnesses only disfellowship an unrepentant member who "makes a practice" of serious violations of "the Bible's moral code." Even then, Lopes added, Jehovah's Witnesses don't force members to limit or cease association with former congregants, whether they've been disfellowshipped or withdrawn voluntarily — that's up to individuals. "Congregation elders do not police the personal lives of congregants, nor do they exercise control over the faith of individual Jehovah's Witnesses," wrote Lopes.

Pedersen added that the serious sins that might lead to disfellowship include manslaughter, adultery and drug use. He said a congregation will always try to help an individual restore their relationship with God, but if the problem persists, Jehovah's Witnesses feel compelled to respect the entire Bible, including instructions to not associate with unrepentant sinners, such as 1 Corinthians 5:11.

Though the Witnesses appealed the county governor's decision, in September 2022 the Ministry for Children and Families upheld the ruling. In October that same year, the county governor said in a [press release](#) that unless Jehovah's Witnesses would "rectify the conditions that led to the refusal of state subsidies," they would lose registration, which they did a few months later, in December. Without its national registration, Jehovah's Witnesses cannot perform marriages, and they lose entitlement to government grants.

The Jehovah's Witnesses of Norway filed two lawsuits against the state in December 2022: one challenging the denial of state grants and another challenging their loss of registration. Those lawsuits have since been combined. Though the Oslo District Court initially granted the Jehovah's Witnesses an injunction that suspended their deregistration until that case was argued, the Ministry challenged the injunction, and in April 2023, the court removed it.

As the trial plays out at the District Court of Oslo, Jason Wise, an attorney who is acting as a consultant on the case for the legal team representing the Jehovah's Witnesses in Norway, said part of the Witnesses' argument is that there is no evidence of harm and that it's not the place of the state to interpret religious texts. The state continues to contend that the Jehovah's Witnesses' practices are in conflict with the Religious Communities Act, particularly, they claim, by exposing children to psychological violence.

Since 2022, Jehovah's Witnesses have reported an increase in vandalism, harassment and physical assaults in Norway. In September 2022, two Jehovah's Witnesses in Harstad, Norway, reported that a man screamed at them and repeatedly attempted to hit one of them. That same month, a man in Kristiansand, Norway, reportedly set a Jehovah's Witnesses mobile display car on fire, and a month later, someone attempted to set fire to a Jehovah's Witnesses meeting place in Fauske, Norway.

"What we see now is that the state of Norway is taking a look at my beliefs, saying, we don't like that, we don't like that," said Pedersen. Asking Jehovah's Witnesses to change their beliefs, he said, is a "violation of my integrity as a person, as a religious person, as a person with a conscience. That's the core issue of this case."

Norway isn't the only place where Jehovah's Witnesses' practices have been under scrutiny. In December, the Belgian Court of Cassation — the highest court in the Belgian judiciary — [rejected an appeal](#) of a lower court's decision, ruling in favor of Jehovah's Witnesses' right to avoid contact with former members.

"Norway is just the tip of another phenomenon. That is a source of concern, because we see that there are more and more attempts in Europe by state institutions to interfere and intrude into the teachings and practices of religious groups, which is forbidden by the European Convention," said Fautré. "The risk is they would open the door to more court cases against other religious groups."

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## **A trial about the State's intrusion into religious beliefs**

Willy Fautré, Director of Human Rights Without Frontiers

HRWF (08.01.2024) - From 8 to 19 January 2024, the District Court of Oslo will examine the de-registration case of Jehovah's Witnesses on the grounds of their exclusion policy of members, also named disfellowshipping.

The case follows the government's denial of the Witnesses' application for state grants in 2021, which they had received for 30 years. These subsidies are not "gifts" but allocations provided for by the Norwegian Constitution and laws to respect the principle of equality between religious communities, whatever their size, since the Church of Norway (Lutheran) is supported by taxpayers' money.

### ***A timeline in short***

**On 27 January 2022**, the County Governor (Statsforvalteren) for Oslo and Viken, Ms. Valgerd Svarstad-Haugland, issued [an administrative decision](#) denying the state subsidy for the year 2021 to Jehovah's Witnesses.

The starting point of the legal saga was a report addressed to the Ministry of Children and Family Affairs by Prof. Rolf Furuli, a professor emeritus of Semitic languages at the University of Oslo and a disfellowshipped Jehovah's Witness himself, in connection with the exclusion and expulsion policy of members. The question was raised about how the report should be assessed with regard to the registration of and state subsidies to the Jehovah's Witnesses.

Noteworthy is that Prof. Furuli supported a first [decision in August 2021 by a Norwegian court](#) "annulling" an ecclesiastical decision where the Jehovah's Witnesses disfellowshipped one of their female members, Gry Helen Nygård. However, this decision was reversed on 9 July 2021 by the Borgarting Court of Appeal and on 3 May 2022 by [the Supreme Court of Norway](#) with a unanimous decision (5-0). Nygård then took her case to [the European Court of Human Rights \(ECHR\)](#), which rejected her complaint without giving any further reason, which is common when the ECHR regards complaints as clearly unfounded.



Nygård has also taken her case to a different court, the media, and has found a sympathetic ear from people hostile to Jehovah's Witnesses.

**On 25 October 2022**, the County Governor of Oslo and Viken, Ms. Valgerd Svarstad-Haugland, demanded via letter that Jehovah's Witnesses change their religious beliefs and practices, otherwise they would lose their registration. In her letter, she did not refer to any court decisions or complaints to the police, child welfare authorities, or other relevant authorities. The Witnesses proposed to meet her but she declined their request.

**On 22 December 2022**, the County Governor revoked their registration as a religious community.

**On 30 December 2022**, Oslo District Court granted Jehovah's Witnesses a temporary injunction suspending the County Governor's decision and pending litigation.

**On 26 April 2023**, the District Court lifted the injunction in response to a request by the Ministry of Children and Families. The decision was appealed.

**On 30 June 2023**, the Borgarting Court of Appeal dismissed the appeal on technical grounds.

### ***What are and can be the consequences of the de-registration?***

News reports about the State revoking the Witnesses' registration stigmatize the nearly 12,000 Jehovah's Witnesses of Norway.

The negative media coverage has led to considerable increase in verbal abuse, physical assaults, as well as vandalism of places of worship (e.g., offensive graffiti, arson).

The community is losing the State's recognition of their religious marriages as well as some \$1.6 million (USD) in government grants.

The State intrusion into the beliefs and practices of Jehovah's Witnesses that is being examined in Norway can have a very negative impact on other religious communities in Norway and other countries.

The ruling against that religious community "can have consequences for a whole range of other faiths," stated **Dag Øistein Endsjø, professor of Religious studies at the University of Oslo**, in an interview published in the newspaper [Vårt Land](#).

In an editorial, **Vebjørn Selbekk (editor-in-chief of the respected Norwegian Christian newspaper, Dagen)** expressed fear that the County Governor may go on and sanction other religious groups whose beliefs and practices she happens to disagree with. He regarded the decision as anti-democratic, and expressed the hope that the Jehovah's Witnesses will "emerge victorious from the upcoming court process." Noteworthy is that Mr. Selbekk is not a Jehovah's Witness and is [critical of their theology](#).

**Monsignor Torbjørn Olsen, the Secretary of the Catholic Norwegian Bishops' Conference**, wrote in a [Norwegian media](#): "If the denial of registration stands, it may soon only be a matter of time before a number of other communities with 'incorrect' positions will be deregistered."

Last but not least, a collateral damage is also the [reaction of the Russian Ministry of Foreign Affairs](#) whose spokesperson, Maria Zakharova, decried the hypocrisy of Norway which deregistered Jehovah's Witnesses, while criticizing Moscow at international forums for banning that same religious community. She also added that Russia's nationwide ban is hereby legitimized by the decision in Norway.