

Human Rights Without Frontiers Int'l

Avenue d'Auderghem 61/16, 1040 Brussels

Phone/Fax: 32 2 3456145

Email: international.secretariat.brussels@hrwf.net – Website: <http://www.hrwf.net>

No Entrepise: 0436.787.535

TVA: BE 0436787535



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FRANCE: Jehovah's Witnesses still denied prison chaplains

For many years, the French authorities have persisted in denying the Jehovah's Witnesses the right to have prison chaplains, even those who are volunteers. On 4 September 2012, the newspaper *Le Monde* denounced this form of discrimination in a full page report.

In April 2008, the interregional direction of the penitentiary services (DISP) of Lille rejected the requests of Jehovah's Witnesses religious ministers to recognize their chaplains for the detention centres of Bapaume (Pas-de-Calais), Rouen (Seine-Maritime) and Laon (Aisne).

In the same year, three individual requests for the visit of a JW chaplain were sent to the inter-regional direction of the penitentiary services of Paris but they met each time with a refusal. The penitentiary administration justified its refusal by the fact that too few Jehovah's Witnesses were in prison and would need a chaplain. The administrative court ruled that this argument was not sufficient to reject such a request all the more so since the chaplains would be volunteers and annulled the controversial decision. More than 30 complaints were afterwards lodged all over the country.

In 2010, the HALDE, France's High Authority of Fight Against Discrimination and for Equality also ruled in favor of a prisoner in Rouen, considering that the penitentiary administration violated his "right to freedom of conscience and opinion." It also asked the Minister of Justice "to allow religious practices on the basis of objective criteria and to implement them effectively in penitentiary institutions."

In three decisions released on 30 May 2011, the court laid the blame on the penitentiary administration which had refused to grant the status of prison chaplain to religious ministers of Jehovah's Witnesses. The Ministry of Justice appealed the judgment.

In June 2011, the Paris administrative court of appeal summoned the penitentiary administration which refuses to accept chaplains of Jehovah's Witnesses to re-examine the requests of this religious community within two months. A fine of 100 EUR per day of delay was provided by the court decision.

To prevent the authorization of officially appointed chaplains who would work with detainees in the prisons, the president of MIVILUDES emphatically asserted earlier this year, unlike the HALDE, that such appointments were not welcome because they might lead to proselytism inside the walls of the detention centres.

The Council of State must soon make a judgment. Currently, besides volunteers, around 200 Catholic chaplains, about 60 Muslims, around 80 Protestants, and about 40 Jewish chaplains are employed by the prison administration.

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Over twenty years ago, Jehovah's Witnesses who were in prison as conscientious objectors could be visited by their religious ministers and rooms were provided in which religious ceremonies could be held.

None of that posed any problem in the past. On the contrary, the Directorate of Prison Services respected and trusted them because they made great contributions to the well-being of the prisons in which they were held.

Why do Jehovah's Witnesses want prison chaplains?

In recent years, the Jehovah's Witnesses have diligently searched for a solution that would end the perpetual impediments to spiritual aid that they wish to bring to prison detainees who have expressly asked for it.

They have tried to remain satisfied with the use of prison visiting rooms for their ministerial visits, but have found the conditions there unacceptable, whether it was because they were purely and simply denied the opportunity to meet with prisoners, with the excuse that their visits would not promote the detainee's social integration, or because they were denied permission to bring with them their Bible or other religious works.

Also, those prisoners who had legally subscribed to the Jehovah's Witnesses' magazines "The Watch Tower" and "Awake" were denied access to them because it was claimed that they were published by a deviant sect.

There are other problems that granting official status to Jehovah's Witnesses chaplains would help solve. First, meetings with ministerial visitors in a common meeting room do not permit

any private interaction, even confidential discussions, and moreover count against the quota of family visits.

In addition, Article R. 57-9-6 of the Penal Procedural Code stipulates that chaplains be allowed to have conversations with their adherents “outside of the presence of a supervisor, whether in the visiting room, in a room provided for that purpose, or in the cell of the prisoner.” These conditions prove to be indispensable for all pastoral activities.

Finally, if no Jehovah’s Witnesses chaplain exist in penal institutions, no religious ceremonies for that religion can be organized, certainly a religion of minority status, for those who have chosen to practice the faith.

Does the low number of requests prevent the naming of Jehovah’s Witnesses chaplains?

To justify their refusal to accept Jehovah’s Witnesses chaplains, the prison administration and the Minister of Justice responded to the Jehovah’s Witnesses’ appeal by stressing that there were not enough prisoners claiming to be members of their church. From a legal point of view, the Paris Administrative Court of Appeal (1) has ruled that “no statutory law or regulation can set conditions for the naming of a prison chaplain based on a minimum number of prisoners capable of appealing for spiritual help.” The administrative courts of appeal in both Nancy and Douai have also arrived at the same conclusion.

Furthermore, administrative practice shows that this pretext for denial is not applied to other religions. On the contrary, *Le Monde* has revealed that the public authorities have, on their own initiative, talked to the *Buddhist Union of France* (UBF) in order to nominate several Buddhist chaplains. Yet, as the somewhat surprised Buddhist Union admits, the typical number of requests from Buddhist prisoners amounts only to about twelve per year. By comparison, the Jehovah’s Witnesses, according to the same article, count about a hundred such requests a year.

Is there a risk of proselyting by prison chaplains?

Article R. 57-9-6 of the Penal Procedural Code stipulates that “persons detained can, at their request, meet with chaplains from their religious tradition as often as is necessary.”

Chaplains are not able to tract (go door to door) in the prisons nor do they have free access to the prison cells for proselyting. They are only allowed to go among the prisoners who claim to belong to the same religion and expressly request the visit of a minister of the religion authorized by the prison administration.

Likewise, according to article D. 439-1 of the Penal Procedural Code: “Chaplains consecrate all or part of their time to the duties defined in article R. 57-9-4 depending on the number of prisoners who wish to meet with those authorized chaplains who work at that particular facility.”

It is thus clear that spiritual help and religious services are offered only to those who express such a need. In the unlikely possibility that it be otherwise, any attempt to go beyond the well-defined limits of the law would no doubt be prevented by prison officials.

Human Rights Without Frontiers recommends to the French authorities to put an end to religious discrimination in prison and to allow detainees to have access to JW chaplains

Footnotes :

(1) RTL Midi, *RTL*, 19 May 2011, 12h30.

(2) Journal, *France Culture*, 30 May 2011, 22h.

(3) *Libération*, Saturday 25 and Sunday 26 February 1995.

(4) Tribunal administratif de Limoges, 16 October 2008, n° 0700710.

(5) *Le Monde*, 29 May 2010, p. 12.

(6) Tribunal administratif de Lille, 1 July 2003, n° 00-1519.

(7) [Cour administrative d'appel de Paris, 30 mai 2011, n° 10PA03567](#) ; [Cour administrative d'appel de Paris, 30 mai 2011, n° 10PA03589](#) ; [Cour administrative d'appel de Paris, 30 mai 2011, n° 10PA03618](#) ; [Cour administrative d'appel de Paris, 30 mai 2011, n° 10PA03619](#).

(8) [Cour administrative d'appel de Nancy, 13 octobre 2011, n° 11NC00211](#) ; [Cour administrative d'appel de Douai, 25 octobre 2011, n° 11DA00554](#) ; [Cour administrative d'appel de Douai, 25 octobre 2011, n° 11DA00555](#) ; [Cour administrative d'appel de Douai, 25 octobre 2011, n° 11DA00556](#).

(9) *Le Monde*, 8 and 9 January 2012, p. 11.