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Freedom of Thought, Conscience, Religion or Belief

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Belgium: Trial Court Dismisses All Charges Against Church of Scientology and Eleven Scientologists

Introduction

Last year during the HDIM, the Church of Scientology Human Rights Office, called the OSCE members' attention on the situation of Belgian Scientologists who were facing an outrageous attack on their religious beliefs in Belgium.

We are glad to report that the situation has now been fully resolved by the Belgian Justice.

On 11 March 2016, in a landmark decision, the First Instance Court of Brussels found in favor of defendants and completely dismissed all charges against the Church of Scientology of Belgium, the Church of Scientology International European Office for Public Affairs and Human Rights and eleven Scientologists who were current or former staff.

The 173 page judgment, issued after a seven week criminal trial that ended in December, 2015 following an intrusive, eighteen year investigation, scrutinized and evaluated the evidence in great detail before unequivocally rejecting all charges and acquitting all defendants.

The Presiding Trial Court Judge, Yves Régimont, found that:

“The entire proceedings are declared inadmissible for a serious and irremediable breach of the right to a fair trial.”

The Court also criticized the Prosecutor and investigators for prejudice against Scientology and its parishioners, noting that the evidence “clearly reveals a presumption of guilt and a total lack of objectivity” in violation of Belgian domestic law and Article 6 § 1 of the European Convention on Human Rights and Fundamental Freedoms.

The two Church bodies and the eleven Church affiliated staff had been subjected to sweeping charges including fraud, extortion, running a criminal enterprise, violating

privacy and the illegal practice of medicine over the course of an investigation that lasted for almost two decades. The prosecution had called for the Church bodies to be disbanded, along with prison terms for the members on trial.

In rejecting the prosecution's case, the Court noted the "lack of evidence" presented by the prosecution to justify the sweeping charges and characterized these charges as "deficient", "incoherent", "contradictory", "inconsistent", "vague", "imprecise", "unclear" and "incomplete".

The Court also determined that the very nature of the criminal proceedings violated defendants' right to their presumption of innocence because the prosecution improperly placed the religion on trial and then presumed that all defendants were guilty based solely on their voluntary association with Scientology. Contrary to the prosecution's approach, the Court found that its proper role was to "judge the concrete facts referred to it which were allegedly committed by the defendants, and not presumed offences which would be contained in the teachings and writings of Scientology."

As the Court determined that the prosecution's case constituted an egregious and irreparable violation of defendants' right to the presumption of innocence and a fair trial, it completely dismissed all charges against the defendants.

This groundbreaking decision has far reaching implications beyond Belgium. It stands for the proposition and establishes the precedent that it offends fundamental human rights to put a religion, its doctrines and its beliefs on trial and presume that anyone who chooses to follow that religion is somehow guilty of a crime. As such, it is one of the most significant judgments on religious freedom decided in Belgium.

The prosecution's prejudice against Scientology, evidenced by a "presumption of guilt and a total lack of objectivity," egregiously violated defendants' right to a fair trial. Heresy trials have no place in modern society; they offend fundamental human rights and the Rule of Law.

Belgian Investigation

By way of background, in 1997, the Belgian government published a 670 page Belgium Parliamentary Commission Report that stigmatized 189 religious organizations, including Baha'is, Buddhists, Scientologists, Seventh-day Adventists, Mormons, Amish, and Pentecostals, by reproducing unilateral accusations against these communities, falsely labeling them as "dangerous sects" without any investigation, cross examination or response by the religions themselves.

Starting in 1997, repressive measures were initiated by the Belgian government to target religions derogatorily designated as "sects". As the International Helsinki Federation noted in 2003, actions taken by the Belgian government in the aftermath of the Parliamentary Report led to public hostility, discrimination and the stigmatization and marginalization of members of these religious groups.

Shortly after the Belgium Parliamentary Commission “Sect Report” was published, a Belgian Prosecutor initiated an intrusive investigation into sincerely held Scientology religious beliefs and peaceful religious practices targeting Scientologists and the Scientology religious community in Brussels. In September 1999, a series of police raids were executed by 120 members of the anti-terrorist Cell of the Brussels Gendarmerie on the Church of Scientology in Brussels, the residences of targeted Scientologists in Belgium and France, and their businesses. The Church's computers and its priest-penitent files were seized during the police searches that happened in 1999 and then in 2001. These files have never been returned

Once the investigation commenced in 1997, Scientologists and the Church of Scientology were singled out by the prosecution for adverse treatment afforded religious groups stigmatised as “sects”. This investigation improperly focused on the teachings and beliefs of the Scientology religion and improperly attempted to criminalize these teachings and beliefs. The investigation lasted for over 18 years, egregiously interfering with the right of the Church of Scientology to go about its religious mission and the right of Scientologists to freely practice their faith in Belgium.

For almost two decades, until judgment was rendered in March 2016, the defendants were unfairly labelled as “guilty” criminals by the prosecution and the media without having their day in Court, stigmatizing and marginalizing them in their communities and disrupting their lives.

First Instance Court of Brussels Judgment

The Court made important findings regarding numerous procedural and substantive issues in the course of its 173 page Judgment, rendered 11 March 2016 after a seven week trial, dismissing all charges against the defendants. The Court's key findings are summarized below.

Violation of the Right to the Presumption of Innocence and Fair Trial

Article 6 § 1 of the European Convention on Human Rights and Fundamental Freedoms guarantees all persons the right to be presumed innocent, with the burden of proof borne by the prosecution. This right to be presumed innocent is an essential element of the right to a fair trial, also guaranteed by Article 6.

In examining the merits of the case, the Court noted that it was “troubled” by the prosecution's approach to the investigation and trial. Instead of targeting any alleged criminal actions committed by defendants, the prosecution instead targeted the “ideology or philosophy contained in Ron Hubbard's teachings through Scientology, as well as their application by the Church of Scientology, in its generic meaning”, through the Belgian Church of Scientology.

Likewise, the oral pleadings of the prosecution focused on reciting lengthy extracts from writings, texts, directives or instructions from Scientology Founder L. Ron Hubbard, which constitute some of the Scripture of Scientology, with “the aim of demonstrating the criminal

intent contained in the doctrine he intended to promote.” The Court noted that, in effect, the prosecution treated defendants as mere instruments implementing a criminal ideology:

“In other words, before it is the trial of each of the defendants prosecuted before this Court, it is primarily the trial of Scientology, in its ideological meaning, that the Prosecution intended to do.”

“Like a Catholic priest accused of paedophilia or fraud to charities, or a terrorist responsible of terrorist attacks, whose criminal behaviors would not be judged according to the teachings of the Bible or the Koran or some of their excerpts, although sometimes very explicit, the acts of the defendants cannot be considered criminal on the sole basis of the ideological or doctrinal writings of their faith, with the burden on them to prove to the contrary. Such a requirement would amount to requiring the defendants to prove their innocence, the Prosecutor only having to demonstrate that the incitement to commit a crime or offence is contained, in his opinion, in the Scientology writings, which suffices to presume the guilt of the defendants, the few concrete elements cited in the case file being there only to support this presumption of guilt.”

The Court found that the very nature of the prosecution’s method of putting a religion on trial constituted an egregious violation of defendants’ rights as the prosecution’s case presumed defendants were guilty simply by associating with Scientology, believing its religious doctrines and implementing its precepts. The Court stated that:

“In the present case, as stated above, the Prosecution (and the investigators, motivated by the same negative *a priori*) intended primarily to have the very doctrine of Scientology developed by Mr. Ron Hubbard tried in Court, the prosecuted defendants in this perspective being only the necessary vehicle to link up the charges considered embedded in Scientology teachings.

How else could one explain the vague, imprecise, even incomplete character of the charges...? Due to this approach, the defendants were primarily presumed guilty based on the sole fact that they were active members in their Church.”

Finally, the Court noted that extracts of police reports from the prosecution’s investigators in the case file further exposed their biased state of mind by claiming, without reservation, that Scientology priest-penitent folders were somehow “used to commit” crimes and “to violate private life” when it was the task of the Court to determine whether an offense had been committed.

The Court concluded with a devastating finding that definitively rejected the prosecution’s case:

“This clearly reveals a presumption of guilt and a total lack of objectivity.”

Under these circumstances, the Court dismissed all charges against defendants “for serious and irreparable violation of their right to a fair trial” guaranteed by Article 6 of the European Human Rights Convention.

1997 Parliament “Sect” List

As noted above, the 1997 Belgian Parliamentary list stigmatizing 189 religious groups as so-called “dangerous sects” formed the poisoned foundation from which the Scientology criminal investigation sprang. The Parliament’s blacklist was included by the prosecution in the record in the criminal proceedings. Defendants argued that the Court should disregard this “evidence” as the sect blacklist exceeded the powers of Parliament and violated their fundamental human rights. The Court agreed and made the following finding:

“The Court shares the views of the defence...: it seems obvious that by presenting in particular a list of 189 movements it considered harmful, the Parliamentary Commission made a value judgment which it was not entitled to do, violating the presumption of innocence which must benefit everyone.”

The Court further found that the Parliamentary Commission “got carried away” and “exceeded its powers”, something “which should be deplored coming from such an Institution.” The Court then concluded:

“According to the Court, it is at the level of the conclusions drawn from its works that the Commission exceeded its powers and eventually violated certain fundamental rights guaranteed in particular under the European Convention on Human Rights, including the presumption of innocence which was just censured.”

The finding by the Court that religious blacklists published by a Parliament exceed legislative powers and violate fundamental human rights, including the right to the presumption of innocence, is an important and significant finding that has precedential value throughout Europe. This ruling should undermine continued reliance on similar Parliamentary religious blacklists used to stigmatize and marginalize targeted religious minorities in other countries.

Criminal Organization and Criminal Conspiracy Charges

The Court rejected the “criminal organization” and “criminal conspiracy” charges against the defendants out of hand. It found that: 1) there were a “number of inconsistencies “in the charges; 2) the case file contained “contrary and contradictory” information; and 3) the charges could not withstand scrutiny due to the “lack of evidence” provided by the prosecution.

In addition to failing to provide “concrete evidence” in support of these claims, the prosecution was unable to even identify the criminal organization that defendants were charged with belonging to, underlying the complete lack of evidence supporting these charges. The Court stated that:

“It must be said that the Prosecutor, whose main task is to defend his accusations, let alone when challenged on all sides, has at no time stated unequivocally what, according to him, would constitute the criminal organization to which the defendants allegedly belonged. Neither in the bill of indictment and references therein, nor even less in his oral pleadings, did the Prosecutor give the Court consistent information in this regard.”

Prosecution Glossary

After seizing tens of thousands of pages of Scientology Scriptures and related books and documents, the prosecution, at great time and expense, proceeded to create a document it entitled ““Standards and Vocabulary of Scientology and Dianetics”, a “collection of texts composed of Scientology rules and doctrine” (“Glossary”).

Although the document purported to accurately define and summarize Scientology terms, and to summarize Scientology doctrines, beliefs, rules and rituals, defendants argued that the Glossary provided biased and inaccurate definitions and summaries. Defendants therefore requested the Court to disregard the Glossary as it was neither credible nor reliable.

The Court determined that the manner in which the Glossary was presented to defendants made it impossible to verify its accuracy; that the prosecution’s use of the Glossary “is to say the least bewildering for the defense”; and that the prosecution’s failure to link up some of the charges in the case created a “serious disadvantage,” making it impossible for defendants “to properly exercise their rights”.

Finally, the Court noted that it was unable to correctly assess the reliability of the Glossary based on the manner in which it was created. Under these circumstances, the Court rejected the document and determined not to take it into consideration.

Illegal Practice of Medicine

The Court also summarily dismissed the prosecution’s vague charges that Scientology spiritual practices such as auditing, the purification program and touch assists¹ somehow

¹ “Auditing is Scientology spiritual counseling. The purification program is a step taken by parishioners along their spiritual path to free their bodies of toxins and drugs and clear their minds to allow future spiritual betterment. The purpose of a touch assist is to bring a person’s attention to an affected area of the body to relieve spiritual travail.

constitute the illegal practice of medicine. The Court rejected these charges on the grounds that no concrete evidence of wrongdoing was ever presented in the proceedings. The Court found that:

“[N]o information is given, the oral pleadings only referring to general behaviors (touch assist, purification cures, auditing), without specifying why these behaviors would constitute offences committed by whom and against whom, while an analysis of the documents cited in the bill of indictment does not, in any way, allow one to clarify the questions of the Court due to the nearly complete irrelevance of these underlying documents in helping to shed light on the corresponding charge or the charge’s elements.”

As the prosecution never presented evidence demonstrating the “component elements” of a crime, the Court determined that the illegal practice of medicine charges “must be declared inadmissible”, due to a “serious and irreparable breach” of defendants’ fundamental right to “fair legal proceedings.”

Undue Delay

Pursuant to Article 6 § 1 of the European Convention on Human Rights, everyone has the right to be tried “within a reasonable time”. The reasonable time guarantee enshrined in the Convention serves to ensure public trust in the administration of justice and to avoid persons charged with a criminal offense remaining too long in a state of uncertainty about their fate, jeopardizing the effectiveness and credibility of a national justice system. See, e.g., *Panju v. Belgium* (18393/09) (28/10/2014).

The Court found that defendants’ right to trial “within a reasonable time” was violated in this case. However, it determined that dismissal on this ground was not an appropriate remedy under Belgian law. Instead, it dismissed the case on its merits based on the violation of defendants’ right to presumption of innocence and a fair trial.

Conclusion

The Court’s 11 March 2016 Judgment dismissing all charges and completely acquitting the Scientology Church bodies and individual defendants constitutes a landmark decision protecting religious freedom and freedom of conscience. The Court clearly recognized that it offends fundamental human rights for the prosecution to put a religion on trial and argue that individuals who simply follow its precepts and voluntarily associate with it should somehow be presumed guilty of a crime without any concrete evidence of wrongdoing.

Church bodies and Church staff do not lose their right to a fair trial and the right to the presumption of innocence simply due to their religious association and beliefs. This ruling has significant implications for all 47 countries that adhere to the European Human Rights Convention. It establishes an important legal precedent protecting freedom of religion.