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**From the European Association of Jehovah’s Witnesses**

**Submission to the UN Human Rights Committee**

**Subsequent to the Adoption of the List of Issues**

**127th Session (14 October–8 November 2019)**

**BELGIUM**

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| SUMMARY OF THE SUBMISSIONThis submission to the Human Rights Committee (CCPR) on Belgium highlights violations of the provisions of the International Covenant on Civil and Political Rights (ICCPR) subsequent to the adoptionof the *List of issues* to be taken up in connection with the consideration of the 6th report of Belgium.Jehovah’s Witnesses in Belgium, and as a worldwide organisation, respectfully request the government of Belgium to:1. Ensure that the adverse consequences to Jehovah’s Witnesses of misleading and tendentious material incorporated in the 1997 report of the Parliamentarian Commission regarding sects are alleviated
2. Guarantee that the recurring erroneous actions of the Information and Advice Centre on Harmful Sectarian Organizations (IACSSO) are corrected and not repeated
3. Grant ministers of Jehovah’s Witnesses the same rights and privileges as ministers of the so-called State recognized religions, including granting them the right to provide pastoral visits to prisoners
4. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Belgium and the International Covenant on Civil and Political Rights for all citizens, including Jehovah’s Witnesses
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# INTRODUCTION

* 1. The European Association of Jehovah’s Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah’s Witnesses facing fundamental human rights violations in various parts of the world.
	2. Jehovah’s Witnesses have been in Belgium for almost 120 years. Following biased and unsupported comments in a 1997 Parliamentarian Commission report and the publication of similar material by the state-sponsored IACSSO, the Belgian State has besmirched the reputation of Jehovah’s Witnesses. This has caused recurrent difficulties for Jehovah’s Witnesses in obtaining suitable facilities for worship. The defamatory material has also been repeatedly cited in child custody cases involving parents who are Jehovah’s Witnesses. In addition, religious ministers of Jehovah’s Witnesses have been denied access to prisoners who have requested pastoral visits from them.

# Violations of the provisions of the International Covenant on Civil and Political Rights (ICCPR)

# Freedom of Thought, Conscience and Religion (Article 18), in Conjunction With Articles 17, 19 and 26; Right of Peaceful Assembly and Association (Articles 21, 22)

#  Background

* 1. Belgium has in practice adopted a three-class system for religions. Application of that system profoundly discriminates against the more than 25,429 Jehovah’s Witnesses in Belgium.
	2. The **first class** is made up of religions that have State recognition. Only six religions and one nonconfessional association in Belgium have State recognition: Catholics, Anglicans, Jews, Protestants (granted in the 19th century), Islam (1974), Orthodox (1985) and nonconfessional philosophical groups (2002).
	3. Recognized religions enjoy substantial State benefits, which include the following: (1) their places of worship are free from tax, and their activity (including the for-profit activity of selling religious icons) is exempt from VAT; (2) the State pays a salary (or pension) to members of their clergy; (3) the State provides their clergy with free housing; (4) the cost of construction/maintenance of their places of worship is paid by the State; (5) their representatives have access to prisons and hospitals for pastoral activities; and (6) their representatives have access to public schools to teach religious instruction classes of the student’s choice offered by the recognized religion.
	4. It is virtually impossible for other religious denominations to obtain State recognition. There is no law governing the process of State recognition. The Minister of Justice has explained, however, that the process begins when the religion submits an application for recognition. If the Minister of Justice agrees, then a bill is submitted to Parliament for approval. If a parliamentary majority approves the bill, then the religion’s name is added to the list of recognized religions. Later, a government decree is enacted, setting out the rights enjoyed by that religion. The Minister of Justice has explained, however, that there are five criteria that the religion must satisfy: (1) it must have “several tens of thousands” of members, (2) it should be structured with a representative body who can represent the religion before civil authorities, (3) it should have been present in Belgium for 20 or more years, (4) it should provide some social benefit to society, and (5) it should not engage in any activity contrary to public order.
	5. The European Court of Human Rights (ECHR) has already concluded that the State’s “duty of neutrality and impartiality” is violated by a scheme in which State benefits or privileges are dependent on a “political” process. In *Magyar Keresztény Mennonita Egyház and Others v. Hungary,* the ECHR decided:

“102. The Court notes that decisions on the recognition of incorporated Churches lie with Parliament, an eminently political body … As a result, the granting or refusal of Church recognition may be related to political events or situations. Such a scheme inherently entails a disregard for neutrality and a risk of arbitrariness. A situation in which religious communities are reduced to courting political parties for their votes is irreconcilable with the requirement of State neutrality in this field.

“103. The Court considers that the applicant religious communities cannot reasonably be expected to submit to a procedure which lacks the guarantees of objective assessment in the course of a fair procedure by a non-political body. Their failure to avail themselves of this legal avenue cannot therefore result in their applications being declared inadmissible for non-exhaustion of domestic remedies …

…

105. … the Court cannot but conclude that the applicant religious groups were not offered a fair opportunity (see *Religionsgemeinschaft der Zeugen Jehovas and Others,* cited above, § 92) to obtain the level of legal recognition sought, notably in view of the political nature of the procedure.” (*Magyar Keresztény Mennonita Egyház and Others*, cited above, §§ 102 and 105)

* 1. The **second class** is made up of religions that do not have State recognition but that enjoy the more limited rights granted to not-for-profit legal associations without being considered a dangerous sect.
	2. The **third class** is made up of religions that are branded by a 1997 Parliamentary Commission report as so-called dangerous sects.[[1]](#footnote-1) Jehovah’s Witnesses have been grouped by State authorities with this third class of religious denominations. Without State recognition, they have been relegated to forming 173 local not-for-profit legal associations, with each holding title to the places of worship used by Jehovah’s Witnesses (called “Kingdom Halls”). As documented below, they are denied several benefits afforded to religions with State recognition. Moreover, being labelled as a “sect” has cast Jehovah’s Witnesses in an “unfavourable light in public opinion” and “may amplify prejudices”, fostering the mistaken assumption that they are a “dubious sect” and a third-class religion. “[S]uch a situation of perceived inferiority goes to the freedom to manifest one’s religion”. (See ECHR judgments in *Magyar Keresztény Mennonita Egyház and Others*, cited above, §§ 92 and 94; and *İzzettin Doğan and Others v. Turkey* [GC], no. 62649/10, § 95, 26 April 2016.)

# Parliamentary Anti-Sect Report

* 1. In 1997, a report by the Parliamentarian Commission regarding so-called sects, a vague and tendentious term never clearly defined, included a list of 189 religious movements, Jehovah’s Witnesses included.
	2. Prior to issuing their report, the Commission addressed a letter to the National Office of Jehovah’s Witnesses in Belgium in which they stated that they were considering their religious movement. Jehovah’s Witnesses provided accurate information about their beliefs and activities. The Commission did not take this information into account and indicated that it was too late. The Belgian authorities never explained on what basis they selected some religious movements and not others.
	3. The Belgian Parliament did not vote on the list, and the report clearly specified that being included on that list does not automatically mean that a movement is a sect. However, in practice, for both the media and the public, Jehovah’s Witnesses are consistently portrayed and considered as such. It was obvious to the Belgian State that this report created an unjustified negative image of Jehovah’s Witnesses, but no steps have been taken to correct the unjustifiable marginalisation of this religious denomination. Several legal challenges to the report were mounted by other religious groups, but in 2006, the Cassation Court stated that the parliamentary immunity granted by Article 58 of the Constitution affords unlimited protection to Parliament and its commissions.
	4. As a result, religious communities such as Jehovah’s Witnesses have no domestic remedies available to them to challenge their inclusion in the parliamentary anti-sect report. This would appear to violate Article 19(3) of the Covenant, which provides: “The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others.”
	5. The existence of the parliamentary anti-sect report also violates Article 26 of the Covenant, which guarantees to all individuals and religious communities the right to equality before the law, to the equal protection of the law and to equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
	6. In 2000, the Belgian State created the IACSSO, which operates under the Ministry of Justice. By adding the term “harmful” to “sectarian organizations”, the Belgian State aggravated the prejudice it had created by categorising some religious movements as “sects” in 1997. Since then, this centre has on several occasions published what it terms “information” about Jehovah’s Witnesses. In fact, what has been published is unfounded and defamatory. By using a state-sponsored body to publish such “information”, the Belgian State in reality implies and tells the public that it considers Jehovah’s Witnesses to be a harmful sect. In 2012, Jehovah’s Witnesses approached the Federal Ombudsman, who concluded that he could not intervene because the IACSSO is not an administrative federal entity. Other religious groups have also mounted challenges to the actions of the IACSSO, but none of these challenges have succeeded.
	7. By their actions, the Belgian State and its IACSSO have besmirched the image of Jehovah’s Witnesses, which, in turn, has caused recurrent difficulties for them in obtaining appropriate facilities for religious worship. The defamatory material has also been repeatedly cited in child custody cases involving parents who are Jehovah’s Witnesses, violating Article 17 (right not to be subjected to arbitrary or unlawful interference with one’s privacy, family, home or correspondence, nor to unlawful attacks on one’s honour and reputation) and Article 26 of the Covenant.

# Right of Persons Deprived of Their Liberty to Be Treated With Humanity and Dignity (Article 10) in Conjunction With Articles 18, 19 and 26

* 1. The Belgian government has repeatedly refused to grant religious ministers of Jehovah’s Witnesses access to prisoners who have requested pastoral visits from them.
	2. On 25 June 2018, the representative body of Jehovah’s Witnesses in Belgium wrote to the Minister of Justice, Mr Koen Geens, requesting that a small group of religious ministers of Jehovah’s Witnesses be granted the same access to prisons as is granted to ministers of recognized religions. That letter was ignored by the Minister of Justice. In letters dated 7 January 2019 and 25 February 2019, Jehovah’s Witnesses again wrote to the Minister of Justice regarding the specific requests of two prisoners to be visited by Jehovah’s Witnesses. Those letters were also left unanswered.
	3. Prison administrations have refused written requests by prisoners for visits by ministers of Jehovah’s Witnesses on the pretext of “no legitimate interest”. Such discretionary refusal can only be used for a request to be visited by a private citizen, but it does not apply to ministers of recognized religions. On 5 August 2019, the representative body of Jehovah’s Witnesses in Belgium wrote two separate letters to the Minister of Justice requesting his approval to visit each of these two prisoners respectively. Those letters also remain unanswered.
	4. Ignoring or refusing the request for pastoral visits from a minister of an appropriate religion, as selected by a prisoner, is a clear violation of Article 10(1) of the Covenant, which provides: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,” in conjunction with Covenant Articles 18 (right to freedom of thought, conscience and religion, to have or to adopt a religion or belief of choice, and freedom, either individually or in community with others and in public or private, to manifest religion or belief in worship, observance, practice and teaching); Article 19 (right to hold opinions without interference); and Article 26 (right to equality before the law, to the equal protection of the law, to equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status).

# CONCLUSION AND RECOMMENDATIONS

* 1. Jehovah’s Witnesses in Belgium, and as a worldwide organisation, express concern at the biased, unsubstantiated and unethical way that they are portrayed by the Parliamentarian Commission regarding sects, to which they have had no right of reply. They further express concern about the disinformation published by the IACSSO, which operates under the auspices of the Belgian Ministry of Justice. By using a state-sponsored body to publish false and defamatory “information” on Jehovah’s Witnesses, the Belgian State in reality implies and tells the public that it considers Jehovah’s Witnesses to be a harmful sect.
	2. Jehovah’s Witnesses in Belgium, and as a worldwide organisation, are perplexed by the refusal by the Belgian government of appropriate pastoral services to prisoners who request such services from a minister of Jehovah’s Witnesses.
	3. Such actions by the government are in clear violation of Convention Articles 10, 17, 18, 19, 21, 22 and 26, as outlined in the submission above. We respectfully request the government of Belgium to take the necessary steps to:
1. Ensure that the adverse consequences to Jehovah’s Witnesses of misleading and tendentious material incorporated in the 1997 report of the Parliamentarian Commission regarding sects are alleviated
2. Guarantee that the recurring erroneous actions of the Information and Advice Centre on Harmful Sectarian Organizations (IACSSO) are corrected and not repeated
3. Grant ministers of Jehovah’s Witnesses the same rights and privileges as ministers of the so-called State recognized religions, including granting them the right to provide pastoral visits to prisoners
4. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Belgium and the International Covenant on Civil and Political Rights for all citizens, including Jehovah’s Witnesses
1. See <http://www.hrwf.net/images/reports/2010/2010%20antisect%20movements%20belgium.pdf> [↑](#footnote-ref-1)