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October 2021

J.C. and Others v. Belgium - [11625/17](#)

Judgment 12.10.2021 [Section III]

Article 6

Civil proceedings

Article 6-1

Access to court

Refusal by the courts to assume jurisdiction to examine a civil claim for sexual abuse against the Holy See, which enjoyed immunity from jurisdiction: *no violation*

Facts – The applicants brought before the Belgian courts a compensation claim against the Holy See, several senior clergymen of the Belgian Catholic Church, and some Catholic associations, on grounds of harm caused by the structurally deficient manner in which the Church had dealt with sexual abuse allegations.

On 25 February 2016 the Court of Appeal held that it had no jurisdiction to entertain the claim, in particular on account of the immunity from jurisdiction enjoyed by the Holy See.

Law – Article 6 § 1:

The present case raised, for the first time before the Court, the question of the immunity of the Holy See. The Court of Appeal had found that it had no jurisdiction to adjudicate upon the applicants' claim, having observed that the Holy See enjoyed immunity from jurisdiction. It had stated that the Holy See was recognised internationally as having the common attributes of a foreign sovereign power, with the same rights and obligations as a State; it was a party to some major international treaties and had signed agreements with other sovereign powers; it had diplomatic relations with some 185 States and was recognised as a State in particular by Belgium. The Court did not find anything unreasonable or arbitrary in the domestic court's detailed reasoning.

The Court of Appeal had thus concluded that the Holy See in principle enjoyed jurisdictional immunity, as enshrined in customary international law and codified in Article 5 of the United Nations Convention on Jurisdictional Immunities of States and their Property and Article 15 of the European Convention on State Immunity.

The granting of jurisdictional immunity to a State was to be seen as a procedural obstacle to the possibility for national courts to adjudicate upon a substantive right. In cases where such immunity impeded the exercise of the right of access to a court, the Court had to consider whether the circumstances of the case justified this impediment.

With regard to the proportionality of the limitation on the applicants' right of access to a court, measures taken by a State which reflected generally recognised principles of international law on State immunity could not in principle be regarded as imposing a

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