

Rights court: Vatican can't be sued in European courts by sex abuse victims

The European Court of Human Rights found Vatican City is protected by state immunity from lawsuits brought in European courts by victims of clergy sexual abuse.

CAIN BURDEAU / October 12, 2021



Pope Francis holds the pastoral staff as he celebrates a mass in St. Peter's Basilica at the Vatican on Oct. 10, 2021. (Gregorio Borgia/AP)

(CN) — Vatican City cannot be sued in European courts because it is a sovereign state, the European Court of Human Rights ruled on Tuesday, delivering a blow to victims of clergy sexual abuse seeking to bring claims against the Catholic Church's highest authorities.

The Strasbourg-based court's finding confirms the Holy See's long-held argument that the pope and other Vatican church officials are shielded by state immunity. The ruling also upheld the Vatican's defense that it cannot be held liable for the actions of priests and bishops in dioceses around the world.

Its ruling came in a case brought by 24 Belgian, French and Dutch nationals who alleged they were sexually abused by priests when they were children.

The plaintiffs are seeking to hold Belgian and Vatican church leaders accountable for the "structurally deficient manner in which the Church had dealt with the problem of sexual abuse within its ranks," the court said in a [news release](#). The judgment was available only in French.

The plaintiffs are seeking damages of at least 10,000 euros (about \$11,500). The court said all the plaintiffs — except four who did not apply — previously received compensation through an arbitration center set up by the Catholic Church for sexual abuse victims.

After Belgian courts said they couldn't sue the Vatican because the Holy See is a sovereign state, the plaintiffs turned to the Strasbourg rights court in 2017 and argued that they had been denied the right to sue.

However, the European Court of Human Rights said the Belgian courts had not erred in shooting down their claims against the Vatican because the Belgian courts "had not departed from the generally recognized principles of international law in matters of State immunity."

A seven-judge panel issued Tuesday's decision with one judge writing a dissenting opinion. The plaintiffs can seek to appeal the ruling to a grand chamber, a rare session presided over by the rights court's president and other top judges.

The dissenting opinion by Judge Darian Pavli buttresses the plaintiffs' chances of getting a grand chamber hearing.

Pavli faulted the Belgian courts for not adequately examining the plaintiffs' claims that the Holy See may have been responsible for ordering Belgian bishops to cover up rape and molestation by clergy.

"The applicants submitted evidence purportedly showing that the Holy See had sent a letter to all Catholic bishops worldwide in 1962 that mandated a 'code of silence' regarding cases of sexual abuse within the Church, on pain of excommunication," Pavli wrote. "Pope Francis himself has in recent years acknowledged a 'culture of abuse and cover-up' within the Catholic Church."

He added: "None of these arguments by the applicants were addressed by the Belgian courts."

The majority on the court, though, agreed with the Belgian courts' findings that the Holy See cannot be held liable for the faults of bishops because they act autonomously in their own dioceses.

"It is the most black day of their lives," plaintiffs' lawyer Walter Van Steenbrugge said about his clients in a telephone interview.

He said it was a huge disappointment that Europe's human rights court found it acceptable for the Belgian courts to not allow the plaintiffs to present their evidence, which he said showed the Vatican was instructing its priests and bishops to not cooperate with investigators.

"There was a clear politic coming out of the Vatican to remain silent, to not work with the investigations, to hide and protect the priests abusing children," he said. "The Belgian courts never analyzed our documents, our claims, because they were saying you can't come here into the courts because the Holy See has immunity."

But he said the Vatican is unlike any other state in the world because it acts not only as a state but also as the head of the Catholic Church's dioceses spread around the world. He said the Vatican's worldwide activities should not be protected by state immunity.

Considering the worldwide implications of allowing his clients to sue the Vatican, he charged the Strasbourg court was afraid to open a floodgate of lawsuits against the Vatican. He said this is the only similar case challenging the Vatican's immunity in Europe.

This was the first time for Europe's human rights court to take up the question of whether Vatican City should be recognized as a full-fledged state that enjoys state immunity.

The Vatican's status as a sovereign state is widely accepted under international law, a view solidified by the fact that the Holy See is a party to major international treaties and has diplomatic relations with about 185 nations.

But some human rights lawyers argue that it should not be considered a state because it is not a member of the United Nations General Assembly but only participates as a permanent observer.

Two prominent atheists, scientist Richard Dawkins and writer Christopher Hitchens, [led an effort in 2010](#) to get Pope Benedict XVI brought before the International Criminal Court to face allegations of crimes against humanity over the church's sex abuse scandals. The campaign grabbed headlines but went nowhere.

In modern history, the sovereignty of the Vatican generally is seen as beginning in 1929 with the signing of the Lateran Treaties between Italian dictator Benito Mussolini and the Vatican. The treaties established an independent Vatican City within Italy and granted Roman Catholicism special status in Italy.

The Vatican — where the pope rules as an absolute monarch — is the smallest state in the world, covering only 0.16 square miles of central Rome. The Vatican also has extraterritorial authority over a number of other sites in Rome and outside the Italian capital, including the pope's summer residence at Castel Gandolfo.

The sovereignty of Vatican City has also been challenged in U.S. federal courts by sexual abuse victims. American courts too have recognized the Holy See as a sovereign state, though federal courts have ruled that the Vatican's immunity [against allegations is limited](#).

While the Vatican may be shielded from lawsuits in European courts, it is coming under renewed pressure to do more about sexual abuse by its clergy following the [release of a report](#) in France this month by an independent commission estimating that at least 330,000 children within France's Catholic Church institutions were sexually abused since 1950.

The report was France's first comprehensive reckoning with sexual abuse committed by its Catholic clergy. France joined a growing number of countries where investigations have revealed pervasive sexual abuse of children by clergy. The Catholic Church has been rocked by reports of widespread sexual abuse in the United States, Australia, Germany, Ireland, Poland and other countries.

In May 2019, Pope Francis issued a new church law requiring all Catholic priests and nuns around the world to report clergy sexual abuse and cover-ups by their superiors to church authorities.

The independent commission in France urged the church to financially compensate victims and institute a number of steps to prevent further abuse, including better training for priests and overhauling the way the church is governed.

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