



## An application from the Church of Scientology complaining about public comments by the Belgian authorities on an investigation concerning it has been rejected

In its decision in the case of [Asbl Eglise de Scientologie v. Belgium](#) (application no. 43075/08) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns a complaint by the Church of Scientology, a non-profit association, that statements to the media by the Belgian authorities about an investigation concerning it constituted a violation of its right to have a fair hearing and to be presumed innocent.

The Court reiterated that it had to ascertain whether proceedings were fair in their entirety. As there had not yet been any final judgment by the Belgian courts on the relevant “charge”, the part of the application concerning an alleged violation of the right to a fair hearing was premature and therefore had to be dismissed. In addition, given that the sole evidence submitted by the applicant association consisted of press articles, the Court took the view that the content of the remarks allegedly made by the authorities could not be attributed to them with certainty. It had not been shown that by informing the public about the inquiries in progress the authorities had breached the duty of discretion required of them by the principle of the presumption of innocence.

### Principal facts

The applicant association, ASBL Eglise de Scientologie, is a Belgian legal entity with its registered office in Brussels. In 1997 it was placed under judicial investigation on charges of fraud and embezzlement. Between 1999 and 2007 a number of Belgian daily newspapers published comments attributed to public prosecutors in which certain accusations were made about the applicant association. Relying in particular on its right to be presumed innocent, the applicant association filed five successive criminal complaints against person or persons unknown, requesting to intervene as a civil party in the proceedings, but the complaints were systematically shelved by the authorities.

In the meantime, in 2007, the applicant association had also applied to the Indictments Division of the Court of Appeal arguing that the proceedings against it should be declared inadmissible, on the ground that by giving their statements to the press the prosecutors had breached the secrecy of the judicial investigation and had disregarded its right to be presumed innocent and to have a fair hearing. In 2007 its application was declared admissible but unfounded, and its appeal on points of law was dismissed in 2008. The hearing before the Committals Division for the finalising of the pre-trial proceedings was adjourned in 2010. According to the information in the parties' observations, the proceedings are still pending at that stage.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 5 August 2008.

Relying on Article 6 § 1 the Church of Scientology complained of a violation by the prosecution of its right to a fair hearing, alleging that prosecutors had publicly giving their opinion on charges against it before the submissions for the prosecution had been made at the stage of the finalising of the pre-trial proceedings.

Under Article 6 § 2 the applicant association further argued that prosecutors had made public statements that reflected their view as to its guilt, thereby breaching its right to be presumed innocent.

The decision was given by a Chamber of seven judges, composed as follows:

Mark **Villiger** (Liechtenstein), *President*,  
Ann **Power-Forde** (Ireland),  
Ganna **Yudkivska** (Ukraine),  
André **Potocki** (France),  
Paul **Lemmens** (Belgium),  
Helena **Jäderblom** (Sweden),  
Aleš **Pejchal** (the Czech Republic), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

## Decision of the Court

### Article 6 § 1

The Court reiterated that it had to ascertain whether proceedings were fair in their entirety. Consequently, it could not in principle rule on a possible violation of the right to a fair hearing until, in particular, the relevant trial courts had heard the case and had given a final ruling on the “charge” in question. As that had not been the case here, the Court found this part of the application premature and dismissed it for failure to exhaust domestic remedies.

### Article 6 § 2

The Court reiterated that the right to be presumed innocent could be breached not only by a judge or a court but also by other public authorities such as members of the public prosecution service. Such a breach was constituted by statements suggesting that the authority regarded the defendant as guilty prior to any final judgment to that effect. Whilst the provision did not prevent the authorities from informing the public about investigations in progress, they nevertheless had to show the requisite discretion in accordance with the principle of the presumption of innocence.

In the present case, however, it was necessary to examine the evidence that had been submitted as to the substance of the statements, attributed to public prosecutors, that had allegedly breached the applicant’s right to be presumed innocent. There had been no audio or video recording of those statements, nor had they been transcribed in documents emanating from the authorities in question, such as procedural documents or official press releases. The only evidence produced by the applicant association consisted of press articles for which the relevant journalists were solely responsible, and it was highly possible that those articles did not accurately reflect the nuances of the remarks in question. It had not been shown that by making public statements about the inquiries in progress the authorities had breached their duty of discretion.

Consequently, the Court found that this part of the application was manifestly ill-founded and had to be rejected.

*The decision is available only in French.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.