

Procès du Père Samuel

1) Reference Details

Jurisdiction: *Tribunal Correctionnel* of Charleroi, Belgium

Date of Decision: 26 September 2008

2) Facts

Père Samuel published a book in 1996 called "Les Versets Angéliques" containing writings which amounted to incitement to hate against Muslims. In 2002 he repeated his assertions, this time in a series of interviews. He was prosecuted for both acts on the basis of the Law of 30 July 1981 for the repression of certain acts inspired by racism or xenophobia.

In his interview in *Le Soir* newspaper published on the 16 and 17 February 2002 the accused declared that '[e]ach Muslim born is a bomb for the west'. In a televised interview he stated that '[e]very mosque is a nuclear centre'; and in a further televised report he stated "[a]n ignorant Muslim, okay. An unaware Muslim, okay. A non-intellectual Muslim, okay, but a Muslim who really knows Islam, that is the danger. The mosques in Europe are worse than nuclear. It's worse than the Soviet SS20...[e]ach Muslim child born in Europe is a time-delayed bomb for the children, the western children of the future..."

3) Law

- Law of 30 July 1981 for the repression of certain acts inspired by racism or xenophobia

4) Legal Arguments

Prescription

The book at issue was published in 1996 but was being sold right up until the present. The issue was then whether it could constitute a continuous infraction and so avoid the prescription of facts, which the defendant argued applied.

Religion or Race

The case was brought against Père Samuel on the basis of the Law of 30 July 1981 for the repression of certain acts inspired by racism or xenophobia. The defendant argued that the law was inapplicable to the facts, as the accused denounced the danger of Muslims in general, whether Arab or not, therefore no criteria of ethnic origin, race or colour was used. He claimed that he had never incited hatred against persons in view of their race, ethnic origin, or colour. He argued that when he does mention Arab-Muslims, he refers to the religious ideas of Islam and not to the people. He furthermore argues that Muslims are not an ethnic group, as they are composed of Arabs, Turks, Africans, Indians, Persians, and Indonesians amongst others.

5) Decision

Prescription

The Court decided that whether an offence is instant or continuous depends on the definition of the offence in the Code Penal. For example, arbitrary detention is considered continuous as the definition of the offence states that it takes place over a period of time. On the other hand, offences in relation to the press, such as defamation and libel, are instant as they are committed by the single act of publication. More than 5 years had passed between the publication in 1996 and the new acts committed in 2002, therefore the public action against the publication is extinguished due to prescription.

Race or religion

The Court found that the accused incited hatred against Muslims. However, it agreed with the accused that Muslims are a religious community, not a race, or an ethnic group. Religion is not a criterion of discrimination that the legislature included in the Law of July 1981, and therefore the accused had not committed such an offence.

[In 2003 and 2007 Belgium passed new legislation which established incitement to hatred on the grounds of religion as a crime.]