



THE INTERNATIONAL
LEGAL FORUM

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THE HAGUE INITIATIVE
for INTERNATIONAL CO-OPERATION

Submission: Report to the United Nations General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of Sustainable Development Goal 16 (SDG 16)

Issue: *Discrimination in law and practice*

Submitters: International Legal Forum (ILF) and The Hague Initiative for International Cooperation (*thinc.*)

This submission regards ‘Laws and policies restricting the right to manifest freedom of religion or belief of minority religious communities’, in particular, discrimination against Jewish and Muslim communities due to the following decree:

Ritual Slaughter Ban as Violation of Religious Freedom

The **International Legal Forum** is a human rights organization and legal hub for lawyers, organizations, and activists from all over the world, joining forces in the fight for justice, equality and human rights. One of our central activities is fighting anti-Semitism.

thinc. is an independent non-profit research foundation, with its statutory seat in the Hague. Our mission is to promote the fair and just application of international law in international relations. We advise politicians and policy-makers to make informed decisions based on the fair and non-discriminatory application of international law to the Jewish people, such as the rule of law, human rights, freedom of religion and friendly relations among nations.

The Wallonian legislature has issued a decree on 18 May 2017 and the Flemish legislature has issued a decree on 7 July 2017, both prohibiting the slaughter of non-sedated animals. The legislatures base their decrees on article 26 section 2 of the EU Council Regulation 1099/2009, which reads:

"2. Member States may adopt national rules aimed at ensuring more extensive protection of animals at the time of killing than those contained in this Regulation in relation to the following fields...

Article 4 of the same regulation reads:

Article 4 Stunning methods

1. Animals shall only be killed after stunning in accordance with the methods and specific requirements related to the application of those methods set out in Annex I...

4. In the case of animals subject to particular methods of slaughter prescribed by religious rites, the requirements of paragraph 1 shall not apply provided that the slaughter takes place in a slaughterhouse.

The legislatures of two of the three Belgian Regions (the Brussels-Capital Region remains so far the exception) claim that the ability to adopt national rules, ensuring more extensive protection of animals at the time of killing (art. 26), sets aside the exception of article 4 section 4, which allows an exception to stunning/sedating the animal before slaughtering it, based on religious rites.

This decree in fact has made both Jewish and Muslim religious slaughter illegal. Thus, the Belgian Regions join Slovenia, Sweden, Denmark and Iceland in prohibiting Jewish ritual slaughter. In contrast to the aforementioned countries, only Belgium has a sizeable Jewish community, with approximately 20,000 Jews living in Antwerp.

On 4 April 2019 the Belgian Constitutional Court referred the case to the European Court of Justice (ECJ) in Luxembourg to obtain a preliminary ruling. The case is known as *Centraal Israëlitisch Consistorie van België and Others*, Case number C-336/19.

The decision is expected to have Continent-wide, and even worldwide repercussions, and may encourage other jurisdictions to limit Jewish and Muslim religious freedoms in the name of animal rights, or other values.

Submitters claim that the ban infringes on the following rights

1. Freedom of religion - Jewish and Muslim religious people are no longer able to exercise religious practices in conformity with their belief.
2. Separation of State and church - the decree tries to prescribe religions how to conduct their religious rites.
3. Right to free choice of labor and free movement of goods and services - for both religious slaughter professionals and religious customers of the goods and services.
4. Equality and non-discrimination: formal vs. substantive equality, while formally the ban may apply to all European citizens, it only substantively effects religious minorities which have specific religious requirements.

With deep concern and dismay, we have measured the potential effect of decrees issued against the Jewish and Muslim communities in Belgium and other countries; a core aspect of the practice of religious freedom stands in existential peril. We fear that forbidding ritual slaughter is a fundamental and critical infringement of rights and might lead to massive Jewish and Muslim emigration from Europe as the practice of their faith will become more challenging. Moreover, highlighting and outlawing fundamental religious practices of these minority groups is likely to cause an additional rise in distrust and negative, even hateful feeling of the majority community in such countries. A fact that might lead to an additional rise in violent rhetoric and action, as well as to additional restrictions on religious practices.

This short brief focuses on Jewish ritual slaughter as we are more knowledgeable about the relevant Jewish religious tenants. However, the religious practices involving Jewish *kashrut* and Muslim *halal* are quite similar and the infringement of religious freedom, as well as foreseeable ramifications of such legal bans are likely to effect Muslims and Jews in a similar way.

What is Jewish ritual slaughter (*shechita*)?

According to Jewish law, Jews may only consume meat that has been slaughtered in a religiously permissible way. Such meat is referred to as kosher. The rules concerning the Jewish slaughter ritual (*shechita*) are not found in the Torah (the Five Books of Moses or the Pentateuch), but in the Talmud, the main book of Jewish law. Respect for the animal is also central to the *shechita*. The entire ritual is aimed precisely at causing the animal as little suffering as possible. The sacrificers (*Shochatim*) are highly trained technicians who have followed a basic five-year training and afterwards a specialized training for another three years. The laws of *kashrut* are highly technical and must be followed with precision for the meat to be religiously permissible¹. Orthodox Jews believe that the laws of *kashrut* were revealed to Moses and the Children of Israel at Mount Sinai and are binding upon every Jew eternally. Kosher food has long been considered a hallmark and a basic distinguishing feature of religiously observant Jews.

Why do laws banning religious slaughter violate Jewish religious freedom?

The prior stunning of the animal is considered to be incompatible with the Jewish rules concerning the *shechita*. These methods are contrary to Jewish law, because an animal intended for food must be healthy and uninjured at the time of *shechita*. The above stunning

¹ For further information on the laws of kosher slaughter, see Chabad: https://www.chabad.org/library/article_cdo/aid/222239/jewish/About-Shechita.htm?gclid=CjwKCAjw2a32BRBXEiwAUcugiMpAOINFgJzWBfXNyo1UrZmwCY9iT_2bD Dhseegz4P4mRECSJueslRoCbroQAvD_BwE

methods injure the animal, making it *treifa* (non-kosher and thus prohibited). If the stunning kills the animal it makes it *neveila* (an animal which has not been shechted) and is forbidden as food for Jews.

What does the law mean for the Jewish community and for religious freedom?

The European legislation has far-reaching consequences for Jews, Muslims and Christians — indeed for worshipers of every faith. Taken at face value, the ban on religious slaughter seems to concern “merely” the rights of the minority Jewish and Muslim populations to observe their timeless rituals. Beyond the surface, this conflict's impact is even more substantial than that.

The rite of the shechita, as it has existed for thousands of years within the Jewish faith, should certainly not be reduced to a way of producing kosher food. The shechita is first and foremost a religious rite in itself, constituting an inseparable and essential aspect of the Jewish faith, just as much as wearing a yarmulke or celebrating the Jewish Passover.

If the law is upheld, the Jewish community in Europe will be denied access to kosher meat, a basic religious and social need. The importation of kosher meat is not a viable alternative:

- Importing Kosher meat is exponentially more expensive.
- Other countries (currently in Europe) also have legal restrictions on either religious slaughter itself or the export of such meat².
- If action will not be taken now to halt or revoke a ban on religious slaughter, especially given the pending legal process in the ECJ, the countries from which to import will be highly limited and the importation of kosher meat to Europe will become all but impossible.
- Even if Jewish believers were to import meat from abroad, they could no longer know with certainty whether the animal was slaughtered entirely in accordance with their specific religious regulations.

The combination of these various restrictions of kosher meat threatens to make Jewish life cumbersome, onerous, and even impossible.

The measure in question specifically relates to traditions of vulnerable minority groups in the society, whose voice is rarely or not heard in the political process. In the case law of the US

² For example, in France the Jewish Orthodox community itself depends on the import of glatt kosher (a higher religious standard) meat from Belgium;

In Germany, animals may only be slaughtered without stunning in order to meet the needs of the religious community in the country itself. The meat of animals slaughtered without stunning may not be exported to other countries;

In Switzerland there has been a ban on ritual slaughtering since 1893;

Imports of glatt kosher meat from the UK are threatened by the impending UK exit from the Union.

Supreme Court, the term "discrete and insular minorities" is used. Needless to say, the Jewish community in the European Union is a vulnerable minority group. A significant part of the European Jews are also Orthodox. This group, because of its specific and distinct customs and costumes, is often the victim of prejudice and anti-Semitism. Add to this the history of the persecution of the Jews and it may be clear that the Jewish community is a vulnerable minority group in European society, which feels offended to the core by a national regulation such as the one at issue in the main proceedings.

The Jewish communities in modern Europe are mostly composed of the survivors of the much larger Jewish communities destroyed by Germany and its local collaborators during the Second World War. While Europe held a Jewish community of approximately 10 million 80 years ago, barely a million and a half Jews remain in Europe today. The Belgian decrees effectively banning religious slaughter harken back to that painful and dark period of European history, circa the 1930s-1940s. **Shockingly, well into the 3rd millennium, Europe is again adopting measures that can effectively strip it of its Jewish and Muslim populations.** This policy is disturbingly evocative of Nazi Germany, where the protection of animal welfare was previously invoked to ban religious slaughter.

This case presents a pivotal moment for Europe; the practice of religious slaughter - a fundamental expression of religious freedom - is at the risk of being forbidden by the official seal of the European Court of Justice (ECJ). If the ECJ rules that religious slaughter is forbidden, under the guise of purported animal welfare, the Jewish and Muslim populations in Europe, and millennia of history, will suffer a detrimental loss and likely eventually disappear.

No man or woman can freely live in a place where he or she cannot practice even the most basic and daily requirements of faith. These types of laws threaten to force Jews, Muslims and other religious minorities to leave Europe in order to practice their faith freely.

Antisemitism and anti-Jewish bigotry are on the rise in Europe³. European Jews once again find themselves threatened by far right, radical left and Islamist extremists. Jewish communities regularly face harassment, discrimination, physical violence, and even murderous assaults. The ban on religious slaughter, in addition to harming the ability of

³ See the Anti-Defamation League <https://global100.adl.org/map/weurope>
European Jewish Congress: <https://eurojewcong.org/what-we-do/combating-antisemitism/antisemitism-in-europe/>
<https://www.dw.com/en/anti-semitism-on-the-rise-in-the-eu/a-50820057>

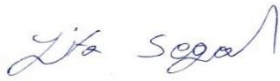
European Jews to live Jewish lives, contributes to this atmosphere of antisemitism by marking Jews out as "Others", following primitive and strange religious practices.

While the ritual slaughter ban's contribution to the protection of animal rights is unclear and may even be negligible, it may be a death knell to Jewish life on the Continent. Rights and interests often collide and require balances by the governments. However, the question must always be which rights and interests are more critically harmed, what is the message sent to the community, and what are the possible ramifications of each decision.

Jews have lived in Europe for millennia, back to the time of the Roman empire. Throughout their long history, Jewish existence in Europe has known Crusades, *auto-da-fés*, forced assimilation and of course, the German Holocaust. Despite this persecution, Jewish communities have contributed immeasurably to Europe, culturally, religiously, intellectually and scientifically. Once again, Jewish life in Europe faces potentially existential threats.

We respectfully ask that you to take an unequivocal stance on this issue and help ensure that Jews, Muslims and other religious minorities, remain free to live according to their faith.

Signed, 28 May 2020



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