

Tribunale, Prima Sezione Civile, Como, decision n. 34/2016

No. 34/2016: First Instance Tribunal, Civil Division, Como (Alessandro Petronzi, judge), Italy: 14 January 2016

Freedom of religion – Criminal law – Damages compensation - Child sexual abuse - Catholic priest convicted as child sexual abuser - Whether the parish church, where he was carrying on his duties at the time of the crime, is responsible for crime compensation in civil court – Whether the diocese is jointly liable with the parish church – Italian civil code, artt. 2043, 2049

In a case of child sexual abuse committed by a parish priest, the First Instance Tribunal of Como ruled that the parish church was directly liable for the compensation in force of the crime conviction, see Article 2043 of the Italian civil code. In fact, the incumbent was facilitated in the commission of the crime by virtue of his duties that gave him the occasion to get in touch with the victim. Being the boy under his custody during the parish activities, the conduct of the incumbent was directly ascribable to the parish church. Moreover, the Judge ruled that with his behaviour the parish priest had deeply wounded the trustful relation between the parish church and the family, taking advantage of the reliability of the church itself.

Finally, under canon law the Bishop has a power and a related duty of surveillance on all the priests within the territory of his diocese. He represents the Diocese. In the light of the fact that the guilty parish priest was exercising his duties under the supervision of the bishop himself and that he committed the crime within his ministry activities, the Diocese was considered jointly liable with the parish church, although in terms of indirect liability (as Article 2049 of the Italian civil code states).

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