

Tribunal of Amsterdam

Press release from “Bureau bedrijfsvoering Communicatie”

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Import of Ayahuasca-tea for the Church unpunishable

Today the Court dismissed defendant in appeal of all legal proceedings, the Court esteemed that the violation by defendant of the Opium Law, in this case is not punishable. The Court of Amsterdam came to the same sentence. The Public Prosecutor applied for appeal against this sentence.

Facts

Defendant brought more than 40 litres of tea from Brazil for the Santo Daime –Church in Amsterdam. This tea, called Ayahuasca-tea, is prepared in Brazil especially according to specific, religious procedures and rituals. The drinking of this tea is an essential element – the Holy Sacrament – of the churches’ service. Santo Daime is an official denomination. But in this tea we find a consisting amount of (Dimethyltryptamine or dimethylthiambuteen, shortened as DMT) a content that according to the Opium Law is forbidden. The import thereof is punishable and defendant will be pursued.

Freedom of Religious practice

According to the European Convention for the Protection of Human Rights (EVRM) and the Dutch Constitution, everybody has the right to practice their religion. This also covers taking part of a Churches’ service.

The freedom of Religious practice is not unlimited. It could happen that other interests such as the public health are more important than the practice of the religion. In such a case the EVRM allows, article 9, section 2 the limitation of Freedom of Religious practice. But this limitation has to be settled by law and it has to be a recognised importance, why it’s necessary to limit. Only when these conditions are met, an infraction upon the freedom of practice of religion will be justified.

Verdict of the Tribunal

In this case, the Court had to decide if a conviction of the defendant would be an intrusion of freedom of practice of religion, due to import of DMT. It concerns the determination of penalty regarding the Opium Law, so we can speak of rightful grounds. Furthermore with this determination of penalty will serve the public health, and this importance will be recognised in article 9 of EVRM as one of protective importance. Subsequently the Court examined the terms if it’s specifically of importance to the public health that the defendant is limited in his freedom to practice his religion? And this (last) question the Court had to answer “No”, this as well because of studies from experts.

According to the Court the concentration of DMT found in Ayahuasca-tea is low, this tea is drunk in the Santo Daime-Church under controlled circumstances and there is sufficient supervision on and information about the possible risks. The risk for the public health, in this case, is one of uttermost insignificance and therefore acceptable in the giving religious context. Under these circumstances a conviction of the defendant won’t be necessary, to protect the public health. Therefore the Court finds that the violation of the Opium Law in this case is not punishable.

Note for the editorial staff, NOT FOR PUBLICATION!!!!

Dept of Communication Tribunal Amsterdam
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