



In this Sept. 25, 2020, file photo, Cardinal Angelo Becciu talks to journalists during a press conference in Rome. (AP Photo/Gregorio Borgia, File)

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Defense lawyers are questioning the legitimacy of the Vatican tribunal where 10 people are on trial on finance-related charges, arguing their clients can't get a fair trial in an absolute monarchy where the pope has already intervened in the case and where prosecutors have failed to turn over key evidence.

In defense motions ahead of the trial's resumption on Oct. 5, lawyers have alleged numerous procedural violations by prosecutors that they say should nullify the indictment. They have questioned what redress they have, since the Holy See has never signed any international convention guaranteeing fair trials or providing recourse to the European Court of Human Rights.

"These are harmful to the right of the defense that affect the right to a fair trial," said Fabio Viglione, attorney for Cardinal Angelo Becciu, the lone cardinal on trial.

The trial concerns the Holy See's 350 million euro investment in a London property deal but has expanded to include [other alleged financial crimes](#). During the preliminary hearing in July, defense lawyers had balked that they had only had a few days to read the 28,000 pages of evidence gathered by prosecutors over two years to understand the accusations against their clients. Key documents were either missing or couldn't be accessed.

The tribunal president, Giuseppe Pignatone, ordered the pope's prosecutors to make the documents available as well as a key missing piece of evidence: the videotaped interrogations of the prosecutors' prime suspect-turned-star witness, Msgr. Alberto Perlasca. He was the Vatican official most intimately involved in the London real estate deal that lost the Holy See tens of millions of euros, much of it donations from the faithful, spent on fees to Italian brokers who are accused of defrauding the pope.

Perlasca's five spontaneous declarations were so important to the prosecution's case that they apparently spared him indictment and formed the basis of several charges against the defendants. One led to a witness-tampering charge against Becciu.

But the prosecutors refused to abide by Pignatone's order to produce Perlasca's videotaped testimony, citing his right to privacy. The defense has only seen a summary of Perlasca's account, and Becciu's legal team only learned of the witness-tampering accusation when the indictment was handed down on July 3.

In a defense memo submitted last week and obtained by The Associated Press, lawyers representing another defendant, Cecilia Marogna, said such behavior by prosecutors to refuse an order of the tribunal president would never be tolerated in an Italian court.

"In a normal situation, in all countries having a judicial system that could be considered autonomous and impartial and structured in a way to safeguard a fair trial, the refusal would have been immediately sanctioned," said the memo by international law expert, Riccardo Sindoca.

On Sept. 21, prosecutors also informed the defense and the tribunal that, due to "internal organizational problems," they couldn't meet Pignatone's deadline to provide forensic copies of data from cellphones, laptops and other electronic devices that had been seized from the defendants.

Sindoca's motion also argued that the tribunal judges can't be considered truly impartial or independent since Pope Francis hired them and can fire them, and that they took oaths to be "loyal to and obey" the pope, not the law as is the case for judges in Italy. As an absolute monarch, Francis wields supreme legislative, executive and judicial power in Vatican City.

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The defense is not alone in finding structural problems in the Vatican tribunal. In June, the Council of Europe's Moneyval evaluators [faulted the Vatican's reliance on part-time](#), temporary prosecutors and judges who also practice in Italy, warning that they might have conflicts of interest.

AP asked the prosecutors' office in January about possible conflicts of interest, and was told the question was "totally specious and devoid of any technical basis." Saying there had never been a conflict, the prosecutors said their work in Italy as registered lawyers "is only evidence of the professionalism they have achieved."

Francis, for his part, has insisted that the Vatican judiciary has "become more independent" in recent years and has pointed to the trial as evidence that his financial transparency reforms are working. Yet Francis also boasted that he personally intervened to encourage the two Vatican officials who raised red flags about irregularities in the London deal to make formal complaints to prosecutors.

In his zeal, Francis then issued four separate executive decrees during the two-year investigation giving prosecutors sweeping powers to investigate even "where necessary to derogate from" existing laws, to conduct wiretaps and to suspend Vatican confidentiality rules for documents.

Defense lawyer Luigi Panella, representing the Vatican's longtime money manager Enrico Crasso, argued during the opening hearing that such interference from the executive power, and the carte blanche Francis gave prosecutors to disregard existing laws, amounted to the creation of an ad hoc "special tribunal," which is expressly outlawed in Italy.

Prosecutors, for their part, insisted that the defense rights had all been respected, defended the legitimacy of the trial and Francis' executive decrees and reminded lawyers that the church's canon law forms the basis of Vatican law, not Italian legislation. Prosecutor Alessandro Diddi acknowledged during the July hearing that if there were procedural errors, he was ready to remedy them.

Backing him up, attorney Paola Severino, who is representing the Secretariat of State as an injured party in the case, called for the defense motions to be dismissed.

In addition to the executive decrees, Francis has also intervened personally in the case. He essentially declared Becciu guilty last year when he forced his resignation as head of the Vatican's saint-making office, citing a 100,000 euro transfer of Vatican money to a diocesan charity run by his brother.

Becciu is now on trial for that transfer, but Francis recently [told the COPE broadcaster](#) of the Spanish bishops conference he hopes "with all my heart," that Becciu is found innocent.

"He was a collaborator of mine and helped me a lot," Francis told COPE. "My wish is that it turns out well."