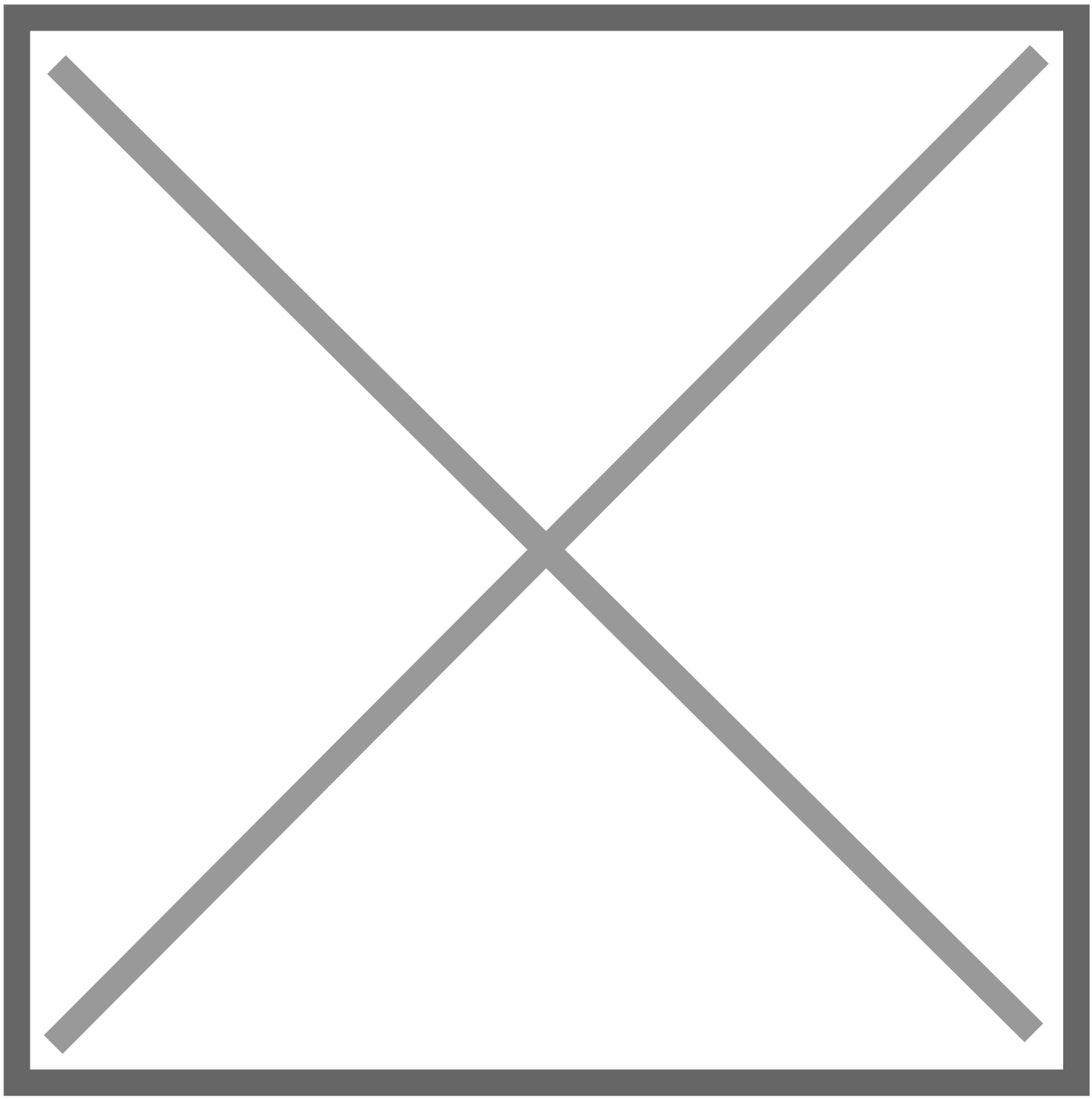
Vatican



Vatican Judge Giuseppe Pignatone listens during the third session of the trial of six defendants -- including Cardinal Angelo Becciu -- accused of financial crimes at the Vatican City State criminal court Nov. 17, 2021. (CNS photo/Vatican Media)

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Defense lawyers in the Vatican's fraud and extortion trial on Feb. 18 accused Pope Francis of violating their clients' human rights by issuing four secret, executive decrees that gave prosecutors free reign to investigate in ways that deprived the suspects of basic legal guarantees.

The lawyers argued that the resulting trial into the Vatican's bungled 350 million euro investment in a London real estate deal is therefore illegitimate, and they again called for Tribunal President Giuesppe Pignatone to throw out the indictments. Pignatone is set to rule on their motions March 1.

The pope's prosecutors have accused the Holy See's longtime money manager, Italian brokers and lawyers involved in the London deal of fleecing the Vatican of tens of millions of euros, much of it donations from the faithful, and of then extorting 15 million euros from the Vatican to finally get full ownership of the property. The 10 suspects deny wrongdoing.

The trial, which formally opened in July, has been consumed with seven months of defense motions to throw out the indictments, most of them citing the prosecutors' refusal to turn over to the defense all the evidence they gathered during their two-year investigation. Prosecutors have repeatedly resisted orders from Pignatone to provide all the information.

On Feb. 18, lawyers repeated those arguments. But they also called into question Francis' own role in the investigation, since he gave prosecutors *carte blanche* to pursue their probe, including by deviating from existing Vatican laws.

Francis' four papal decrees, known as "rescriptum," imposed a "summary rite" over the whole investigation, essentially creating ad hoc norms that defense lawyers say violate the basic concept of the rule of law, the right to a fair trial and a host of other basic human rights. Those rights, they argued, are guaranteed under the church's own canon law, which is the basic source of law for the Vatican's criminal code.

The decrees gave prosecutors authorization to intercept suspects electronically and take "whatever" precautionary measures against them were necessary. During the investigation, prosecutors searched suspects' homes, seized their laptops, issued arrest warrants and in two cases detained suspects preemptively. Because of the "summary rite" imposed, there was no independent judge overseeing the prosecutors during their investigation.

Attorney Marco Franco, representing broker Gianluigi Torzi, argued that Torzi didn't even know about the existence of the decrees until after he was indicted and had spent 10 days in a Vatican barracks, where he was jailed after he voluntarily agreed to respond to prosecutors' questions. The decrees, meanwhile, have still not been published in any official Vatican publication as would be expected of any law, Franco noted.

Attorney Luigi Panella, representing the Vatican's former money manager Enrico Crasso, noted that neither the defense nor the tribunal knows what prompted Francis to issue the decrees, in yet another violation of their rights. "For the rescriptum to be valid, it is fundamental to be able to evaluate the request for them and their conformity to the law," he said.

He said the pope's decrees place the entire trial "outside the laws of this state, but also outside the principles of a fair trial guaranteed by international human rights conventions and the Italian Constitution."

The arguments about Francis' role underscore the anomalous circumstances of the trial and the perceived conflicts of interest. Francis and the Vatican claim to have been victims of a crime, but Francis himself is the absolute monarch of the Vatican, with supreme legislative, executive and judicial power. Although the victim of the alleged crime, Francis has issued executive decrees benefiting the prosecution, modified the city state's laws to allow cardinals to be prosecuted, and even appointed a new judge to hear the case.

Prosecutor Alessandro Diddi is expected to respond to the defense arguments on Feb. 28. His only intervention on Feb. 18 was to accuse Franco of "calumny" for having suggested that Torzi, while detained in the Vatican barracks, had little choice but to turn over his cellphone and laptops.

Pignatone said after he ruled on the defense motions he would set a calendar for future hearings and court activity "if there will be future activity."

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