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Muslims bitter at German government crackdown demand

EarthTimes (29.03.2011) / HRWF (31.03.2011) - <http://www.hrwf.net> – Berlin, Germany - Muslim leaders in Germany on Tuesday protested the new interior minister's demand that they should help root out extremists by coming forward with information shared in mosques.

The demand by Interior Minister Hans-Peter Friedrich at the long- scheduled talks chilled five years of efforts to overcome suspicions between Berlin and the Islamic community, who make up 5 per cent of Germany's population.

Muslims had wanted to talk about ways to fight poverty and the high failure rates of their children in schools.

When he took office earlier this month, Friedrich said Islam had no place in German history, and then repeated the remark on national breakfast television Tuesday.

The minister, who belongs to the conservative Bavaria-only Christian Social Union (CSU), then issued a briefing paper demanding that the community renounce Islamists, report radical sermons by imams and tell police about conversations that could indicate a terrorism threat.

Muslims in Germany often say they feel insulted for being collectively blamed for crimes, such as the murder of two US airmen on March 2 at Frankfurt Airport by a disturbed ethnic Kosovar youth.

Nine of the 15 Muslim delegates to the conference, all of whom had been hand-picked by the government, issued a joint statement of protest.

They said a demand that German Muslims should fight homegrown extremists as the price for government aid to their community made them doubt whether the meeting was even intended to encourage dialogue or improve the integration of Muslims in Germany.

"As Muslim participants in the Germany-Islam conference, we appeal to the minister not to carelessly endanger years of efforts to build dialogue between Muslims and the state and put at risk the achievements of the conference so far," they said.

Muslim academic Armina Omerika said outside the meeting that Friedrich seemed to be urging on Muslims "a nasty culture of shopping one another" to the police.

Europe's biggest nation has had a rocky relationship with its 4 million Muslims.

Friedrich was unrepentant about his views. He said on public channel ARD: "The character of our country, our culture through the centuries, our value system is Christian and occidental."

But he said Muslims "obviously" belonged to German society today and appealed for them to integrate better into German life.

Muslim groups had tried to focus the Germany-Islam Conference, which began in 2006 under a previous interior minister, on poverty and low education levels among Muslims and on easing friction between Muslims and the German school system.

So far, the main common ground has been that both sides welcome state-salaried religion teachers being trained at German universities to give instruction in public schools.

The Muslim community itself argued about who should attend the conference. Mosque groups were upset that people who had rejected their religion were invited to take part. Lamyia Kaddor, a Muslim academic, said the conference had been dominated by mosque groups and gave too little voice to liberal Muslims.

One major Islamic group, the Central Council of Muslims, decided a year ago under an earlier interior minister to boycott the meeting series, the Germany-Islam Conference, calling it just "a talking shop" and a "security conference in disguise."

Germany strips Egyptian imam of asylum rights over hate speech

EarthTimes (09.03.2011) / HRWF (14.03.2011) - <http://www.hrwf.net> - An Egyptian-born imam lost a court fight Wednesday to stave off his expulsion from Germany after he was accused of preaching hatred towards Christians and Jews.

The superior administrative tribunal in Muenster, northern Germany, agreed to a federal government demand to strip his political asylum. A lower tribunal must now review whether to order his actual deportation to Egypt.

His lawyer said he would appeal, adding, "This may take years."

Germany ordered him stripped of asylum rights in 2006 but the Muslim preacher fought the order in the courts.

He has filed papers insisting that he ceased preaching in favour of jihad, or holy war, in 2000. He asserts that a German transcript of him calling for violence against Jews and Christians is a mistranslation of what he said in Arabic.

But the Muenster judges said he had lost his right to asylum through past actions that breached the United Nations prohibition on terrorism.

European Court/ Germany: Dismissal of kindergarten teacher by Protestant Church for active commitment to another religious community was justified

Chamber Judgment (03.02.2011) / HRWF (24.02.2011) - www.hrwf.net - In today's Chamber judgment in the case Siebenhaar v. Germany (application no. 18136/02), which is not final, the European Court of Human Rights held, unanimously, that there had been:

No violation of Article 9 (right to freedom of thought, conscience and religion) of the European Convention on Human Rights

The case concerned Ms Siebenhaar's complaint about her dismissal from her job in a kindergarten run by a Protestant parish on the grounds of her active involvement in another religious community.

Principal facts

The applicant, Astrid Siebenhaar, is a German national who was born in 1964 and lives in Kelttern (Germany). She is a Catholic and was employed from May 1997 as a childcare assistant in a day nursery run by a Protestant parish in Pforzheim and later in the management of a kindergarten run by another Protestant parish in that city. Her employment contract stated that the labour law provisions for staff of the Protestant Church were applicable, which provided in particular that employees were obliged to be loyal to the Church and that they were not allowed to be members of and work for organisations whose views or activities were in contradiction to the Church's mandate.

Having been informed by an anonymous source of the fact that Ms Siebenhaar was a member of a religious community named the Universal Church/Brotherhood of Humanity and that she offered primary lessons in the teachings of that community, the Protestant Church held a hearing in December 1998 during which she was questioned. With the staff committee's agreement, the Church subsequently informed Ms Siebenhaar of her dismissal without notice, which took effect as from 1 January 1999.

Ms Siebenhaar brought proceedings against her dismissal before the Pforzheim Labour Court, which rejected her claim in February 1999, arguing that she had violated her obligations of loyalty towards the Protestant Church. In the court's view, that infringement constituted a reason for dismissal without notice under the relevant provisions of the Civil Code. The Baden-Württemberg Labour Court partly allowed Ms Siebenhaar's appeal, holding that the violation of her obligations of loyalty did not justify a dismissal without notice. The Federal Labour Court quashed that judgment and rejected Ms Siebenhaar's claim, holding in particular that she had not only offered primary lessons but was also the contact person on registration forms for higher spiritual teaching courses. The Protestant Church could thus have rightly feared that her activities would influence her work in the kindergarten and put the Church's credibility at risk. Moreover, the relatively short duration of Ms Siebenhaar's employment with the Church had to be taken into consideration. In March 2002, the Federal Constitutional Court declined to consider Ms Siebenhaar's constitutional complaint against that decision.

The labour courts referred to a leading judgment by the Federal Constitutional Court of 4 June 1985 concerning the lawfulness of the dismissal of Church employees after a

violation of their obligations of loyalty. Following that judgment, Church employers had the right to govern their affairs in an autonomous manner, while at the same time labour courts were bound by the principles of the Church employers' religious and moral precepts only to the extent that they did not conflict with the fundamental principles of the legal order of the State.

Complaints, procedure and composition of the Court

Ms Siebenhaar complained of her dismissal, relying in particular on Article 9.

The application was lodged with the European Court of Human Rights on 29 April 2002. The Protestant Church of Baden and the Protestant Church of Germany were given leave to intervene as third parties in the proceedings and submitted written observations.

Judgment was given by a Chamber of seven, composed as follows:

Peer Lorenzen (Denmark), President,
Mark Villiger (Liechtenstein),
Isabelle Berro-Lefèvre (Monaco),
Mirjana Lazarova Trajkovska ("the Former Yugoslav Republic of Macedonia"),
Zdravka Kalaydjieva (Bulgaria),
Ganna Yudkivska (Ukraine), judges,
Eckart Klein (Germany), ad hoc Judge,
and also Claudia Westerdiek, Section Registrar.

Decision of the Court

Article 9

The Court had to examine whether the balance struck by the German labour courts, between Ms Siebenhaar's right to freedom of religion under Article 9 on the one hand and the Convention rights of the Protestant Church on the other had given her sufficient protection against her dismissal. The Court reiterated that the autonomy of religious communities was protected against undue interference by the State under Article 9 read in the light of Article 11 (freedom of assembly and association).

By putting in place a system of labour courts and a constitutional court having jurisdiction to review the former courts' decisions, Germany had in principle complied with its positive obligations towards litigants in the area of employment law. Ms Siebenhaar had been able to bring her case before a labour court with jurisdiction to determine whether her dismissal had been lawful under State labour law while having regard to ecclesiastical labour law. The Federal Labour Court had found that, given her active commitment to the Universal Church, she could no longer be counted on to respect her employer's ideals.

The German labour courts had taken account of all the relevant factors and undertaken a careful and thorough balancing exercise regarding the interests involved. According to the courts' findings, Ms Siebenhaar's dismissal had been necessary to preserve the Church's credibility, which outweighed her interest in keeping her job. The courts had also taken into consideration the relatively short duration of her employment. The fact that, after that thorough balancing exercise, they had given more weight to the interests of the Protestant Church than to those of Ms Siebenhaar did not itself raise an issue under the Convention.

The Court found the German labour courts' findings reasonable. Ms Siebenhaar had been, or should have been, aware from the moment of signing her employment contract that

her activities for the Universal Church were incompatible with her work for the Protestant Church.

In view of these considerations, the Court concluded that there had been no violation of Article 9.

Note: Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

European Court/ Germany: Taxpayer's obligation to disclose non-affiliation with church to employer did not violate his right to freedom of religion

Chamber Judgment (17.02.2011) / HRWF (24.02.2011) – www.hrwf.net - In today's Chamber judgment in the case Wasmuth v. Germany (application no. 12884/03), which is not final¹, the European Court of Human Rights held, by a majority, that there had been:

No violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights;

No violation of Article 8 (right to respect for private and family life).

The case concerned Mr Wasmuth's complaint of the compulsory reference on his wage-tax card to the fact that he does not belong to a religious society authorised to levy religious tax.

Principal facts

The applicant, Johannes Wasmuth, is a German national who was born in 1956 and lives in Munich. He is a lawyer in private practice and is also employed as a lecturer in a publishing house. On his wage-tax cards of the last few years, the entry "--" could be found in the field "Church tax deducted", informing his employer that he did not have to deduct any church tax for Mr Wasmuth.

After having unsuccessfully requested the local authorities to issue him a wage-tax card without any information concerning his religious affiliation for the fiscal year of 1997 and 1998 and having unsuccessfully brought proceedings before the German courts in that matter, Mr Wasmuth again unsuccessfully made such a request concerning his tax card to be issued for 2002. He subsequently brought proceedings before the finance court, arguing that the information on the tax card violated his right not to indicate his religious convictions, that there was no legal basis for the public treasury to levy church tax and that it could not be expected of him as a homosexual to participate in a tax collection system which benefited social groups – the churches - whose stated goal was to question and to debase an integral aspect of his personality.

The finance court rejected Mr Wasmuth's claim in February 2002, holding that the local fiscal authorities were entitled under the relevant provisions of Bavarian law and German federal law to obtain information about employees' affiliation or non-affiliation with a religious society authorised to levy church tax and to submit that information to the employer in charge of deducting the tax. The entry "--" served to avoid him having to unduly pay church tax. In the court's view, the interference with Mr Wasmuth's fundamental rights was minimal and he had to accept it in the interest of the proper collection of church tax. The court further pointed out that the views of the Catholic and Protestant churches in Germany did not interfere with Mr Wasmuth's personality rights and that their position on homosexual marriage was shared by many other groups. The churches' position did not give Mr Wasmuth the right to refuse to participate in the church tax system. The decision was upheld by the Federal Court of Finance. By decision of 30 September 2002 (1 BvR 1744/02), the Federal Constitutional Court rejected Mr Wasmuth's constitutional complaint, referring to its decision of 25 May 2001 (1 BvR 2253/00) not to accept his earlier complaint, in which it had found that the disclosure of a taxpayer's non-affiliation with a religious society authorised to levy religious tax did not place an unacceptable burden on him.

Complaints, procedure and composition of the Court

Mr Wasmuth complained that the compulsory disclosure on his wage-tax card of his non-affiliation with a religious society authorised to levy religious tax amounted to a breach of Article 8 and Article 9, and also of Article 14 (prohibition of discrimination) taken together with Article 9.

The application was lodged with the European Court of Human Rights on 14 April 2003.

The Protestant Church of Germany and the (Catholic) Association of German Dioceses were granted leave to intervene in the proceedings as third parties and submitted written statements.

Judgment was given by a Chamber of seven, composed as follows:

Peer Lorenzen (Denmark), President,
Karel Jungwiert (the Czech Republic),
Rait Maruste (Estonia),
Mark Villiger (Liechtenstein),
Isabelle Berro-Lefèvre (Monaco),
Zdravka Kalaydjieva (Bulgaria), judges,
Eckart Klein (Germany), ad hoc Judge,
and also Claudia Westerdiek, Section Registrar.

Decision of the Court

Article 9

In accordance with its recent case-law, the Court found that the obligation to inform the authorities of his non-affiliation with churches or religious societies authorised to levy religious tax constituted an interference with Mr Wasmuth's right not to indicate his religious convictions. The Court was satisfied that that obligation had a basis in German law, as the domestic courts had consistently held. The interference had further served the legitimate aim of ensuring the right of churches and religious societies to levy religious tax. It remained to be established whether the interference had been proportionate to that aim.

The German courts had been called on to balance the negative aspect of Mr Wasmuth's right to freedom of religion against the right of churches and religious societies to levy

religious tax as guaranteed by the constitution. The Court agreed with the German Government that the reference on the tax card at issue was only of limited informative value as regards his religious or philosophic conviction, as it simply indicated to the fiscal authorities that he did not belong to one of the six churches or religious societies which were authorised to levy religious tax in Bavaria and exercised that right in practice. The tax card was not in principle used in public; it did not serve any purpose outside the relation between the taxpayer and his employer or the tax authorities. In contrast to other cases in which the Court had found a violation of Article 9, the authorities had not asked Mr Wasmuth to explain why he did not belong to one of the religious societies authorised to levy religious tax and did not verify what his religious or philosophic conviction was. The Court therefore found that the obligation imposed on Mr Wasmuth was, in the circumstances of his case, not disproportionate to the aims pursued.

As regards Mr Wasmuth's complaint that by providing the required information he contributed to the functioning of the church tax system and thereby indirectly supported the churches whose positions he rejected, the Court took note of the German courts' arguments that his participation in the system was minimal and that it served precisely to avoid him having to unduly pay church tax. The Court further had regard to the fact that there was no European standard in the area of funding of churches and religious groups, a question which was closely linked to each country's history and tradition.

In view of those considerations the Court concluded that there had been no violation of Article 9.

Article 8

The Court reiterated that the collection, storage and transfer of data linked to an individual's private life fell within the remit of Article 8 § 1. The obligation imposed on Mr Wasmuth thus constituted an interference with his rights under that Article. However, in the light of its findings under Article 9 the Court held that that interference had been in accordance with the law and that it had been proportionate to a legitimate aim pursued for the purpose of Article 8 § 2. There had accordingly been no violation of Article 8.

Article 14

As regards Mr Wasmuth's complaint under Article 14 that he had been discriminated against as a homosexual, the Court observed that he had not raised that point before the German Federal Constitutional Court. That part of his complaint therefore had to be rejected as inadmissible for non-exhaustion of domestic remedies.

Note: Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Burqa woman resigns after German state imposes cover-up ban

EarthTimes (03.02.2011) / HRWF (21.02.2011) - Website: <http://www.hrwf.org> - Frankfurt, Germany - A 39-year-old Muslim mother has resigned her job at Frankfurt's city administration after the state of Hesse imposed Germany's first ban on wearing a burqa at work, officials said Thursday.

The woman, who is of Moroccan origin, previously wore a headscarf while counselling city residents, but wanted to resume her job after maternity leave with her face completely veiled.

The city objected, saying taxpayers would not accept an official if they could not see her eyes.

Lawyers for the woman initially demanded a large severance payment, but the city said she had since handed in her resignation, effective last Monday, and was not expecting any compensation.

Germany generally tolerates Islamic headscarves covering the hair and ears, though some states prohibit teachers in public schools wearing them. About 5 per cent of Germany's population is nominally Muslim.

Hesse, the state where Frankfurt is located, issued a regulation on Wednesday prohibiting all public-service employees from wearing face veils at work.

Extremists protest at construction of Germany's largest mosque

EarthTimes (02.02.2011) / HRWF (21.02.2011) - Website: <http://www.hrwf.org> - Cologne, Germany - Several dozen right-wing extremists protested on Wednesday as the top beams were added to Germany's largest mosque under construction in the city of Cologne.

Ditib mosque federation said the building would not only be "a home for the Muslim community," but also a place to meet non-Muslims, at the topping out ceremony which traditionally marks the moment a building's roof structure is completed.

"This construction is not a one-way street - just like the process of integration itself," said the Muslim federation, which receives funding from Turkey.

The mosque, designed for 1,200 people, features a 37-metre-high dome and two minarets standing 55 metres tall. The final site, occupying 5,000 square metres, is to include a cultural centre and meeting point.

"Interreligious and intercultural dialogue will be revitalized by this mosque," said Bekir Alboga of Ditib. He stressed that non-Muslims were also welcome to attend the sermons, which would also be translated into German.

Building work began in November 2009, after people in Cologne criticized the proposed mosque for being too big and staged a series of anti-Islamic demonstrations.

Lale Akguen, an author and former parliamentarian of Turkish origin, on Wednesday reiterated the criticism and said Ditib intended the mosque to be a symbol of power.

"The construction will cement parallel communities," the Central Council of Ex-Muslims feared.

However the mayor of Cologne, Juergen Roters, rejected the criticism.

"If Muslims in Germany build large, representative mosques, this is a sign of normality," Roters said.

15-year-old sentenced for attack on German Jewish group

EarthTimes (07.02.2011) / HRWF (21.02.2011) - Website: <http://www.hrwf.org> - Hanover, Germany - A 15-year-old boy was given a suspended 15-month detention term Monday for a string of offences including his role in an attack in which gravel was thrown at a group of German Jewish children.

Several children of Arab origin yelled anti-Semitic abuse during the attack on the group, which was performing a traditional dance at a community arts festival last year in a public housing estate in the city of Hanover. One dancer suffered abrasions.

Police identified four boys of Arab origin as assailants but none of them were charged. Three were minors and the other, 19, was mentally disabled. The defendant, who is an ethnic German, not Arab, imitated the other four and was not openly anti-Semitic, judges said.
