



Coordination des Associations et des Particuliers pour la Liberté de Conscience

Registration on EU Transparency Register 628479527756-78
Civil society platform of Fundamental Rights created by the EU FRA
French non-benefit association register : W751082307

Member : European Federation for Freedom Of Belief - FOB
Member : European Network Of Religion and Belief - ENORB

133rd session of the Human Rights Committee, 11 October to 5 November 2021

Submission to the UN Human Rights Committee by :

Coordination des Associations et des Particuliers pour la Liberté de Conscience

Fundacion para la Mejora de la Vida, la Cultura y la Sociedad

written contribution for States parties under review: GERMANY

**Germany violates its Constitution by discriminating against a
peaceful religious minority**

In Germany, different State, Regional and Local Administrations continue to harass, discriminate and justify the unequal treatment of members of a Minority religion despite the rulings of German courts, and despite the concerns shown by the UN Special Rapporteur on freedom of religion or belief and the UN Special Rapporteur on minority issues.

Since nearly 30 years, and still today in 2021, German citizens are in general life contexts required to sign declarations that they did not and will not participate in any Scientology related activity before obtaining some public and private jobs, or before getting a municipal grant to get an eBike and so contribute to the city's efforts on protecting the environment, as it has been happening with the City of Munich.

On 16 June 2021, the City of Munich has been condemned by the Bavarian State Administrative Court of Appeal for discriminating against an artist who is a member of the Scientology religion, by refusing to give her a grant for the purchase of a "pedelec" (e-bike). The Court now obliged the city to pay her a grant for the purchase of an eBike.

The Bavarian State Administrative Court of Appeal on 3rd August served its written ruling (file no. 4 B 20.3008) in the case of a Munich Scientologist against the City of Munich. The case is related to the city E-Mobile Funding Directive, issued to help improve environmental protection, and the city's denial to approve a grant for the acquisition of an E-Bike to the Scientologist, solely because of being a parishioner of the Scientology religion.

The Bavarian State Admin Court of condemned the city practice with unmistakable words as an unjustified interference in the religious freedom guarantee of Art. 4 of the German Constitution and as a violation of Art. 3 of the Constitution which prohibits unequal treatment before the law.

The court stated: “The exclusion of applicants, who feel bound by the Scientology teachings, from the circle of recipients of grants [for an E-Bike] also constitutes a violation of fundamental rights in a multiple way. It is incompatible with the freedom of religion or philosophy and does not satisfy the equal rights requirements of the Constitution”.

As the Federal Supreme Admin Court had judged already in 2005, also the Bavarian State Administrative Court confirmed that the plaintiff and generally all members of the Church of Scientology can “in any case claim the fundamental right of Art. 4 sect. (1) of the Constitution”. Art. 4 sect. (1) of the German Constitution guarantees the inviolability of the freedom of belief or the religious and philosophic denomination. By denial of the requested grant, the City of Munich had violated this in a multiple way.

The court forbids the city to generally require the revelation of the religious or philosophical conviction of any citizen and blanketly exclude Scientologists from its funding program for E-Bikes. The court found “Measures from public authorities that are aimfully directed against the practice of a freedom right protected by Art. 4 sect. (1) of the Constitution, at any rate constitute indirect interferences with a fundamental right. These prerequisites are fulfilled in the case of the exclusion of Scientology adherents from the funding program of the defendant when connected to their personal belief.”

According to the magazine BitterWinter, 1 “the judges also noted that the local Offices for the Protection of the Constitution have a right to operate for the ‘prevention and suppression of concrete anti-constitutional acts,’ but it is not part of their job to single out individuals to be excluded from certain benefits granted to all citizens. Excluding Scientologists from state grants established in the interest of ecology ‘is incompatible with freedom of religion or belief’ since, ‘according to the case law of the Federal Supreme Administrative Court, persons whose personal life is governed by the doctrine of Scientology, can invoke the protection of religious or philosophical freedom,’ irrespective of the evaluation of Scientology by the Offices for the Protection of the Constitution”.

On the prohibition of unequal treatment practices, the court found that the city’s exclusion practice violates the fundamental equal rights principles of the Constitution. The court stated: “Also for reasons of equal treatment, the exclusion of Scientology-members and -adherents from the funding program of the defendant [the City of Munich] must be considered as illegal. It violates Art. 3 sect. (1) and (3) of the Constitution”, that is to say, it violates the fundamental principle that all people are equal before the law and that they must not be subjected to disadvantages by reason of their belief or religious or philosophical conviction.

While this type of rulings are becoming more usual against the Germany authorities, the state continues to use, allow and condone the discrimination and even publicly funded harassment of the beliefs and members of this internationally established religious movement.

Last September 2020, we requested the Human Rights Council to take measures with Germany to have these human rights violations stop. While diplomatic action may have been taken, we insist on the Human Rights Council to take up the issue with the Germany delegation so that they abide by the commitments this state has taken on the respect of human rights and human dignity of all Scientologists in Germany with no reprisals being taken against them nor their churches by ostracizing them even though they do not violate the law as had been confirmed by another German High Court in Baden-Württemberg on 04 March this year (file no. VGH 8 S 1886/20) in the case of another Scientologist. In that case the state government had issued an order, barring a Scientologist from the security areas of German airports, solely by reason of his membership in Scientology. This would have made the exercise of his profession as an electrical engineer impossible to protect the security of air traffic by lighting of their runways. The State Administrative Appeal Court confirmed the first instance judgement which had

cancelled the government order already in 2020 as inappropriate and a violation of its discretionary powers.

The above shows that human rights violations do occur in Germany against Scientologists by general administrative practice. In the absence of such practice Scientologists would not be required to defend their human rights each time in lengthy court proceedings.