

Justitsministeriet



Klage over religiøs symbolik i mit pas

AFLEVERINGSATTEST

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Justitsministeriets Lovkontor
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Klage over religiøs symbolik i mit pas

Mit pas har på indersiden et billede af en kristus. Det er en krænkelse af min religionsfrihed, idet den danske stat tvinger mig til at bære et religiøst symbol, som jeg ikke tilslutter mig.

Jeg påberåber mig Den Europæiske Menneskerettighedsdomstols afgørelse 3 november 2009.

Her fastslog Menneskerettighedsdomstolen, at krucifixer på offentlige skoler var en krænkelse af den Europæiske Menneskeretskonventions artikel 9 om religionsfrihed – se bilag.

Oplys mig derfor om første klageinstans for mit anbringende, herunder hvilke ankeinstanser jeg har fra første klageinstans og videre op til Den Europæiske Menneskerettighedsdomstol.

Tillad mig samtidig at foreslå, at De informerer justitsministeren om denne sag.

Roskilde 25 februar 2010

Karsten Riise Kristensen
cand.merc. et exam.art.

Bilag: European Court of Human Rights, Lautsi v. Italy no. 30814/06

**Press release issued by the Registrar
Chamber judgment¹**

Lautsi v. Italy (application no. 30814/06)

**CRUCIFIX IN CLASSROOMS:
CONTRARY TO PARENTS' RIGHT TO EDUCATE THEIR CHILDREN IN LINE WITH THEIR
CONVICTIONS AND TO CHILDREN'S RIGHT TO FREEDOM OF RELIGION**

***Violation of Article 2 of Protocol No. 1 (right to education)
examined jointly with Article 9 (freedom of thought, conscience and religion)
of the European Convention on Human Rights***

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 5,000 euros (EUR) in respect of non-pecuniary damage. (The judgment is available only in French.)

Principal facts

The applicant, Ms Soile Lautsi, is an Italian national who lives in Abano Terme (Italy). In 2001-2002 her children, Dataico and Sami Albertin, aged 11 and 13 respectively, attended the State school "Istituto comprensivo statale Vittorino da Feltre" in Abano Terme. All of the classrooms had a crucifix on the wall, including those in which Ms Lautsi's children had lessons. She considered that this was contrary to the principle of secularism by which she wished to bring up her children. She informed the school of her position, referring to a Court of Cassation judgment of 2000, which had found the presence of crucifixes in polling stations to be contrary to the principle of the secularism of the State. In May 2002 the school's governing body decided to leave the crucifixes in the classrooms. A directive recommending such an approach was subsequently sent to all head teachers by the Ministry of State Education.

On 23 July 2002 the applicant complained to the Veneto Regional Administrative Court about the decision by the school's governing body, on the ground that it infringed the constitutional principles of secularism and of impartiality on the part of the public authorities. The Ministry of State Education, which joined the proceedings as a party, emphasised that the impugned situation was provided for by royal decrees of 1924 and 1928. On 14 January 2004 the administrative court granted the applicant's request that the case be submitted to the Constitutional Court for an examination of the constitutionality of the presence of a crucifix in classrooms. Before the Constitutional Court, the Government argued that such a display was natural, as the crucifix was not only a religious symbol but also, as the "flag" of the only Church named in the Constitution (the Catholic Church), a symbol of the Italian State. On 15 December 2004 the Constitutional Court held that it did not have jurisdiction, on the ground that the disputed provisions were statutory rather than legislative. The proceedings before the administrative court were resumed, and on 17 March 2005 that court dismissed the applicant's complaint. It held that the crucifix was both the symbol of Italian history and culture, and consequently of Italian identity, and the symbol of the principles of equality, liberty and tolerance, as well as of the State's secularism. By a judgment of 13 February 2006, the *Consiglio di Stato* dismissed the applicant's appeal, on the ground that the cross had become one of the secular values of the Italian Constitution and represented the values of civil life.

Complaints, procedure and composition of the Court

The applicant alleged, in her own name and on behalf of her children, that the presence of a crucifix in the State school attended by the latter was contrary to her right to education in conformity with her religious and philosophical convictions, within the meaning of Article 2 of Protocol No. 1. The display of the cross had also breached her freedom of conviction and religion, as protected by Article 9 of the Convention.

Den italienske stats argument om at kucifixer bare var et "nationalt og kulturelt symbol" blev enstemmigt afvist af Menneskerettighedsdomstolen.

The application was lodged with the European Court of Human Rights on 27 July 2006.

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

Françoise **Tulkens** (Belgium), *President*,
Ireneu **Cabral Barreto** (Portugal),
Vladimiro **Zagrebelky** (Italy),
Danutė **Jočienė** (Lithuania),
Dragoljub **Popović** (Serbia),
András **Sajó** (Hungary),
Işıl Karakaş (Turkey), *judges*,

and Sally **Dollé**, *Section Registrar*.

Religionsfrihed er særlig afhængig af, at staten udviser neutralitet i religiøse anliggender.

Enhver borger skal uden problemer kunne undgå religiøse symboler, hvor staten er involveret.

Decision of the Court

The presence of the crucifix – which it was impossible not to notice in the classrooms – could easily be interpreted by pupils of all ages as a religious sign and they would feel that they were being educated in a school environment bearing the stamp of a given religion. This could be encouraging for religious pupils, but also disturbing for pupils who practised other religions or were atheists, particularly if they belonged to religious minorities. The freedom not to believe in any religion (inherent in the freedom of religion guaranteed by the Convention) was not limited to the absence of religious services or religious education: it extended to practices and symbols which expressed a belief, a religion or atheism. This freedom deserved particular protection if it was the State which expressed a belief and the individual was placed in a situation which he or she could not avoid, or could do so only through a disproportionate effort and sacrifice.

The State was to refrain from imposing beliefs in premises where individuals were dependent on it. In particular, it was required to observe confessional neutrality in the context of public education, where attending classes was compulsory irrespective of religion, and where the aim should be to foster critical thinking in pupils.

The Court was unable to grasp how the display, in classrooms in State schools, of a symbol that could reasonably be associated with Catholicism (the majority religion in Italy) could serve the educational pluralism that was essential to the preservation of a “democratic society” as that was conceived by the Convention, a pluralism that was recognised by the Italian Constitutional Court.

The compulsory display of a symbol of a given confession in premises used by the public authorities, and especially in classrooms, thus restricted the right of parents to educate their children in conformity with their convictions, and the right of children to believe or not to believe. The Court concluded, unanimously, that there had been a violation of Article 2 of Protocol No. 1 taken jointly with Article 9 of the Convention.

This press release is a document produced by the Registry; the summary it contains does not bind the Court. The judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human

Rights.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

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