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OSCE - HUMAN DIMENSION IMPLEMENTATION MEETING - 2019

RECOMMENDATIONS of the European Office of the Church of Scientology for Public Affairs and Human Rights

Freedom of Thought, Conscience, Religion or Belief

19 September 2019

SCIENTOLOGY IN GERMANY SECT FILTERS

0. RECOMMENDATIONS:

- 1. To the German government: Put an end to the discriminatory practice of the “sect filters” by Germany which violates human rights standards on freedom of religion or belief. Sit with Church of Scientology officials in order to solve any misunderstanding.***
- 2. To the OSCE/ODHIR: to investigate the practice of sect filters in Germany in order to put an end to these discriminatory practices. To assist in establishing a real dialogue between the Church of Scientology and government.***

I. BACKGROUND

The Church of Scientology has existed in Germany since 1970. In the last five decades it has demonstrated its adherence to the law. It has expanded from one initial Church in Munich to nine Churches currently, along with several groups in the major cities of Germany.

During the 1970s and 1980s some factions in the established two mainstream Christian Churches worked hard to prevent the recognition and/or acceptance of the Church of Scientology and other religious minorities so that they would remain small. These factions established so-called “sect commissioners” in all their dioceses or bigger parishes and “Parents Initiatives” under their control who spread baseless rumours about the Church of Scientology and other new religions as part of their “apologetic task”. While other new religions have had a significantly reduced (or no)

presence for some years now, this is not the case for the Church of Scientology, which has continued to grow.

Evidently this growth has been of major concern to these factions, especially as the campaigns of their sect-commissioners has had no effect on the Church of Scientology.

An increase in pressure against the Church of Scientology became evident in 1989 in Hamburg when the Church of Scientology Hamburg moved to a large building that was publicly very visible. Consequently the Lutheran sect commissioner of Hamburg issued a public appeal in the media under the heading "*Who stops Scientology?*" which was meant to serve as a wake-up call to Hamburg politicians and the rest of Northern Germany.

The result was an all-out organized campaign that started in the early 1990s in Hamburg and subsequently developed throughout Germany where primarily the "sect commissioners" of Lutheran Church closed arms with state officials and government politicians to involve the Church of Scientology in numerous legal battles and conflicts so that it would have to fight for its very existence and future survival.

This campaign resulted in a three-fold legal and social attack:

1. Rumours were spread and legal cases were brought arguing that the Church was using the Scientology **religion as a mere pretext to pursue commercial purposes**. This, if proven would have resulted in the loss of the existing legal capacity of all German Churches of Scientology and guarantee of protection by law to religious groups that flowed therefrom.

Through about 30 administrative proceedings and some 20 court cases, the Church of Scientology finally won this argument before the High Courts, first in 1997 (Supreme Admin Court 06.11.1997, file no. 1 C 18.95) and again in 2003 (Baden-Württemberg State Admin Court of Appeal 12.12.2003, file no. 1 S 1972/00), 2005 (Bavarian State Admin Crt of Appeal 02.11.2005, file no. 4 B 99.2582) and last in 2008 (Admin Court Ansbach 13.11.2008, file no. AN 16 K 06/03463). These decisions confirm that Scientology Churches do not pursue commercial ends but pursue idealistic-religious purposes instead. This legal battle was successfully concluded at the end of 2008 after 28 years of litigation.

2. Charges that Scientology Churches constitute **criminal and anti-constitutional organisations** that needed **to be banned** throughout Germany.

First, in 1991 in Hamburg, charges were filed against the local Church of Scientology by a local politician, claiming that the Church of Scientology was a criminal organisation. These charges were dismissed as unfounded by the Hamburg prosecutor in 1994. Regardless, German politicians, pushed by some sect commissioners of the Lutheran Church and Hamburg officials, did not give up but established a special task force within the Federal Criminal Office (BKA) in 1995 dedicated to Scientology. The purpose of this task force was to try to find avenues to ban the Church of Scientology throughout Germany as a "criminal organisation". This eventually came to an end in about 2007/08 as the BKA was never able to establish any facts that would support such legal proceedings because such facts did not exist.

Parallel to that, another special task force was established within the Federal OPC (Germany's national security service) in the same time period to find evidence that the Church of Scientology was pursuing anti-constitutional political endeavours that could be used to ban it as an anti-constitutional organisation. Again, Lutheran sect commissioners were involved by assisting the task force in secretly providing apostate former Scientologists to testify about their personal hostilities against the Church of Scientology. The Church was never able to respond to these statements as it was never confronted with their testimony and only found out at a much later date.

As a result, the Churches of Scientology were subjected to scrutiny by the OPC since 1997. This included the infiltration of OPC agents into the Church to find evidence of the Churches' supposed unconstitutional conduct and to secretly obtain lists of their membership. No wrong conduct or activities were found. Thus, this campaign to ban the Church of Scientology came to an end in 2008 when a secret OPC expertise (leaked to the DER SPIEGEL magazine which on 22 Sept 2008 published a report about the subject) came to the conclusion that there was no factual basis to ban the Church of Scientology. This was confirmed by the State Secretary of the Federal Ministry of Interior to the German media after a Conference of the State Ministers of Interior in November 2008 with an according public media statement as published by the FOCUS magazine on 21 Nov 2008:

“... we need factual indicators of there being anti-constitutional activities”, state secretary of the Federal Ministry of Interior August Hanning said prior to the conference's final meeting on Friday. “The outweighing majority of OPC agencies completely agree that these sufficient indicators do not exist”.

In view of that, in 2013 the Federal OPC wanted to completely discontinue all surveillance but was prevented from doing so by three German states who by reason of their fear of loss of face opposed it.

3. Requiring people to publicly denounce Scientology as a condition of participation in normal economic life (called sect filters) to ostracise Scientology and mark the Church as a public menace to inhibit the Church's growth through the loss of members, to prevent the private business (or other) activities of Scientologists (which were quite independent of any church activity) by prohibiting their involvement in normal economic life.

This latter point is the topic of this submission. Several concerned members have had to fight personal legal battles against such sect filter uses that were to destroy their personal professional or business relations. While they won their court cases during a period of 20 years of litigation, the situation continues to persist due to the wide-spread use of the sect filter.

The subsequent section concentrates on the subject of the illegal German sect-filter practice that continues to be tolerated in Germany today.

II. SECT FILTERS

As already stated above it was the “wake-up-call” by a Lutheran pastor and sect commissioner in Hamburg that turned Scientology into a political issue in order to prevent its further growth. This call was first heard by a local Hamburg politician (Mrs Caberta) who took up the subject in the Hamburg City Council several times in 1991 and 1992 with the following calls to oust Scientology from Hamburg:

- on 25.04.1991:

*“I am glad that the Senate in this question [Scientology] can depend on all present here so that **we jointly will help to oust Scientology from Hamburg. That should not lead to the fact of them merely moving to another town, but that we redefine the term “Clear Germany” that they once coined, to mean: we will make “Germany Clear” from Scientology.**”* [Emphasis added]

In a later city council session this was expanded to the whole of Germany with the following statement:

- on 4 June 1992:

*“I think we did not discuss Scientology for the last time today, but we will continue and **we will free Germany from Scientology.**”* [Emphasis added]

As a result the City of Hamburg established a political office in September 1992 making the above city council member Caberta – then a public servant and the first “political sect commissioner” – the in-charge of it, solely to fight the Church of Scientology. While she first ran her campaign against Scientology and Scientologists limited to the City of Hamburg, this was extended by herself to the whole of Germany in subsequent years. She sought to obstruct the Church of Scientology and its individual members by various legal ploys, for example, by demanding that the Church and its members be classified as disloyal to the law or seeking to exclude individual Scientologists from access to certain memberships or professional careers, preventing them from renting city halls or from being able to purchase state-owned real estate that was up for sale.

To accomplish the above, in 1995 the (now former) political sect commissioner of the City of Hamburg invented the first sect filter – called “Scientology protection declaration” or “Technology declaration” - to prevent the “infiltration” – (as was her false insinuation that was confirmed as false by a task force of the OPC on 12 Oct. 1998) - of the German commerce world by Scientologists active in the business world (which was entirely for their own professional purposes).

These sect filters demand an individual to reveal any connection to or affiliation with the Church of Scientology by asking whether or not the person ever attended or currently attends a course or seminar that contains the “Technology of L. Ron Hubbard”. Additionally the individual had to declare that he will not practice, disseminate such “technology” nor attend any such seminars/courses in the future and for the time of his employment or service contract. The same declaration was required from the General Manager of any business or company in relation to his employees or subcontractors involved in the service provided by the business or company. This

in turn requires the Manager to demand the same declarations from the business/company employees about any present or past affiliation or membership with the Church of Scientology though this is utterly their private concern and utterly belongs to the private sphere of their life.

The reference to the above “technology” term is an intended euphemistic governmental circumscription of membership in the Scientology religion as that membership, as a matter of principle, involves every member in one way or another with “L. Ron Hubbard Technology” when he/she attends a Church of Scientology seminar or course to become familiar with the religious doctrine of Scientology. This is also evident from public statements by the former Hamburg political sect commissioner when she labelled her sect filter in front of various professional organisations to be:

“An effective formal obligation with a wording that no Scientologist will sign.”

The sect filter therefore requires **both the revelation** of any Scientology membership or affiliation and the **discontinuation of membership or resignation from Scientology** as otherwise **no** employment contract, service contract or invitation to a government bid would be granted. A **refusal to fill out** such filter **results in being automatically disbarred** from the prospective employment, service contract or invitation to bid for a government contract. A **false declaration** on this sect filter – if found out about at a later time – is threatened to be subject to the **immediate termination of any contract for good cause** plus in addition to potential damage claims or refund claims against the individual or his business or company. Any Scientologist acting as an employee in the company of the contracted service provider or as a subcontractor is required to be disbarred from the contract just the same, as if that obligation is not complied with, this will have the same negative consequences on the original business or company that acts as a service provider.

Undoubtedly, all the above consequences constitute serious and grave threats resulting in personal, professional, social, economic or other disadvantages being imposed on any Scientologist solely by reason of his religious membership and affiliation.

This sect filter was promoted by the above Hamburg political sect commissioner in special lectures before Chambers of Industry and Commerce that were held across the country. These Chambers subsequently promoted the sect filter to their business members to implement them in their own contracts. In parallel, this measure was submitted to the German Conference of Ministers of Commerce as a necessary tool for excluding Scientologists from any invitation to submit a bid for a government contract. Such actions were regularly coordinated via the so-called “Inter-ministerial Working Group Scientology Organisation” at a federal level and under the auspices of the Federal Ministry for Family, Seniors, Women and Youth. Thus in turn, other German government agencies promoted it to the commercial world and enticed private companies to adopt the sect filter as their own tool in their contracts with employees and subcontractors of any kind - violating the unconditional religious freedom right of Scientologists as guaranteed by Art. 18, 2 CCPR.

Many legal conflicts resulted throughout the years across Germany between individual members of the Scientology religion and individual corporations of public law and private organisations which were ordinarily settled before or out of court on the basis of severance payments to the employed Scientologists.

The campaign of the City of Hamburg resulted in several Scientologists losing contracts or business deals by reason of the City having promoted their anti-Scientology “protective declaration” to their prospective customers or business contractors. This resulted in several court cases against the City of Hamburg where **the Hamburg State Admin Court of Appeal held that the promotion of the sect filter was illegal and an interference in the right to freedom of religion or belief of an individual Scientologist.** The court confirmed that a Scientologist can rightfully claim this protection with the following words:

“The plaintiff, for her belief in the teachings of Scientology respectively its philosophic belief can claim the protection of Art. 4 section 1 [Freedom of Religion] of the German Constitution. According to Art. 4 section 1 of the German Constitution, the freedom of belief, of conscience and the freedom of the religious and philosophical denomination are inviolable.”

(Hamburg State Administrative Court of Appeal, 17 June 2004, file no. 1 Bf 198/00)

As the City appealed, the case went up to the Federal Supreme Admin Court which finally issued a ground-breaking decision on 15 Dec 2005 that the distribution and promotion of the sect filter to exclude Scientologists from a business relationship was unconstitutional as it violated the freedom of religion or belief guaranteed to a Scientologist. The decision explicitly confirmed the finding of the Hamburg State Admin Court of Appeal that Scientology was a religion according to Art. 4. of the German Constitution and that the interference by the City of Hamburg with this right was illegal, as the following quotes show:

***“2. The defendant has by sovereign action interfered with the plaintiff’s freedom of her religious or philosophical denomination....
The termination of the business relationship interferes with the religious and philosophical freedom, because it is based on the religious or philosophical conviction of the plaintiff. ...***

“3. The sovereign action of the defendant was illegal. The distribution of the protective declaration lacks the required legislative authorization.”
(Federal Supreme Admin Court 15 Dec 2005, file no. 7 C 20.04).

As the City of Hamburg and other German states held that this decision was only valid “inter partes” in relation to the past particular plaintiff, Hamburg had continued its promotion of the sect filter. Therefore, despite 9 years of litigation another suit had to be filed in 2006 by another Scientologist which was finally won after another 11 years of litigation when the City, after pressure from the Hamburg State Admin Court of Appeal, gave an undertaking as part of a settlement in Autumn 2017 not to promote the sect filter any longer. Even so, the City of Hamburg and other German

States refuse to apply the principles of the above decision in that they still require a sect filter to be signed such as in the context of service contracts with private companies or the sale of state owned real property to any prospective buyer or in the context of employment contracts between state agencies or state organisations and private individuals.

Those Scientologists already employed by the government cannot be ousted from their employment, except were it is proven that they have engaged in any kind of misconduct for which any public servant can be dismissed from his job by law. Such has not occurred in the past. But as a result of such sect filter policy, no Scientologists will be **newly** employed in a government job such as a teacher for example in Bavaria or Hamburg.

The States of Hamburg, Bavaria and Baden-Württemberg have even implemented a “survey about Scientology connections” that everyone has to sign when he or she wants to obtain a government bid for contract or be employed as a public servant. Attempts initiated by the State of Bavaria to force Scientologists already in government employment to fill out such surveys were however declared illegal by Labour Court judgments in Munich in the years 2000 and 2001. Nevertheless, the State of Bavaria insists on filling out such “Scientology surveys” prior to any new employment as an official or as a simple employee in a government agency or in a private corporation funded by the state or in contexts of a service contract between individuals and state agencies. Anyone who refuses to fill out such a survey or who admits any connection or membership in Scientology will not be granted employment nor be awarded a government contract based on the submission of his bid.

Likewise the sect filter has become a sweeping practice in private membership relationships such as with the access of one’s children to a private kindergarten or a private school as these private non-profit organisations are often dependent from state funds which they fear will not be granted, if they were to become associated with a Scientologist. This means that children are refused by the private kindergarten or private school, if one of the parents is a Scientologist. The same sect filter practice is applied for professional access to certain professional unions such as mediators, real estate property brokers or private tutors, etc. The Chambers of Industry and Commerce in Hamburg and in several other German cities require the sect filter to be signed to even be able to attend a professional training seminar as a mediator. In all these examples, if the sect filter is filled out truthfully or in case of a refusal to fill out such declaration, access to membership or access to the particular form of professional training will be barred as a matter of principle.

German law does not provide any effective legal remedy against the above practice in the private legal sector as the principle of “freedom to contract” applies.

In March 2017 a Scientologist – who had been working for the Munich House of Art for 22 years without any problem and to the satisfaction of the Managers of the House - was dismissed from his job without notice solely by reason of a political pressure due to him being a Scientologist¹. This is evident from the parliamentary

¹ <https://www.neweurope.eu/article/german-court-sides-with-scientologist-following-his-dismissal-from-munich-art-house>

record of discussions of the Committee of Science and Art of the Bavarian State Parliament where the State Minister of Culture declared in May 2017 that no Scientologist will ever be allowed to be employed by the House of Art. The Managers of the House of Art had been ordered by him already in 2016, to implement the anti-Scientology survey – which they had first protested against and considered to be illegal and therefore not implemented based on legal advice they had obtained on their own. Any person newly applying for a job in the House of Art now has to sign the anti-Scientology survey as otherwise the House of Art will not receive the state funds that it urgently needs to cover its budget.

The concerned Scientologist had filed a suit to the Munich Labour Court to protect his rights. As the House of Art had first contested a labour relationship, the Court had to confirm the existence of such as a legal prerequisite. Subsequently various other reasons were invented by the House of Art to retroactively justify his immediate dismissal all of which were rejected at trial as invalid and ineffective by the Munich Labour Court in April 2019. In the final outcome the case was settled on the basis of a high severance compensation and the House of Art declaring that its past retroactive reproaches used to dismiss the Scientologist are no longer upheld and that they will also not object to the old-age insurance claims for this Scientologist (who is 62 years old). By reason of the biased media reports that had flanked the above dismissal from 2017 to 2018, the Scientologist had not been able to find a new job elsewhere as his name had been illegally leaked in 2017 to the media by a member of the Board of Directors of the House of Art who had a personal animosity towards the Scientologist.

In the year 2018 the City of Munich adopted a city funded incentive program to support individuals or certain professions to purchase a so-called e-bike (a bicycle with an electrical engine to support riding the bicycle) for use in professional contexts as an incentive to reduce pollution from car traffic. Anyone who applied for participation in this program can obtain a support of up to EUR 500 for the purchase of such an e-bike but has to sign an anti-Scientology declaration where he has to declare his distance to Scientology. Specifically this declaration demands the following from any applicant:

“VII. Protective Declaration in relation to the teachings of L. Ron Hubbard/Scientology

“Based on city requirements the recipient of support funds is obliged to give a protective declaration in relation to the teachings of L. Ron Hubbard.

“By way of her/his signature the applicant declares that she/he does not apply, teach or otherwise disseminate any contents or methods and also no technology of L. Ron Hubbard and that she/he does not attend any courses or seminars according to this Technology.

“Location: _____ Date: _____ Signature: _____”

A female Munich Scientologist and professional violinist applied for such funding, but she had refused to sign the above declaration as it would have required that she resigns from the Church of Scientology as she of course does attend courses and seminars in the Church which are part and parcel of the term „ “Technology of L. Ron Hubbard” in the meaning of this „ “protective declaration”. This also follows from its title which specifically mentions “Scientology”. In consequence, while the city confirmed that the applicant would otherwise qualify for the support of an e-bike purchase, the City rejected her application due to her refusal to sign the above quoted declaration. A suit was filed to the Bavarian Admin Court against this denial in 2019 where the City defended that it does not grant the support because it does not want to be associated to Scientology as such a bike could be used by the applicant “for promotional purposes of the Church” (though the applicant clearly only needs and wants to use it for her professional purposes for bicycle rides to her violinist performances). The suit was recently unexpectedly dismissed by the Munich Admin Court with no reasons available yet from the Court for this unconstitutional and arbitrary denial. It will be appealed.

In fact, the use of sect filters by German government bodies for employment contracts or for service contracts with outside service providers is far reaching and wide-spread. In Bavaria no professional of any kind will be able to participate in a government bid, if he does not sign a sect filter that excludes a membership in the Church of Scientology. Similar practices abound in Hamburg and in Baden-Württemberg. Other German states appear to be more liberal on the subject.

The inclusion of such requirements in the award of any kind of government bids for a service contract has led to this identical practice having been adopted by the German commerce world as a kind of anticipatory obedience so as not to lose out on such award of bids by reason of any potential suspicions for connections to or associations with Scientology of whatever kind. Thus the commerce world was enticed to implement the same type of practice for employment purposes or for obtaining services of any kind.

LEGAL CONCLUSIONS:

The above sect filter practice violates the principles established by the ICCPR in Art. 18, 2 and 3 as expressed in the General comment No. 22 issued by the UN High Commissioner on Human Rights. This conclusion is compelling because:

- *The sect filter practice clearly abolishes the “unconditional protection” of freedom of belief by requiring individuals to reveal their religious affiliation to Scientology.*
- *The disadvantages connected to having or adopting the Scientology belief constitute a form of coercion or threat, be that the restriction of free access to education at least in relation to private schools and kindergartens, and very clearly in relation to the free access to employment or government contracts or private business contracts.*
- *Similarly the rights per Art. 25 CCPR such as the participation in the conduct of public affairs or having access to public service is impaired as the revelation of a Scientology membership will result in being excluded from either of the two.*

All the above examples show an organised form of coercion to prevent the adoption of a Scientology membership or to otherwise cause the resignation from such membership. They demonstrate the stigmatisation of the Church of Scientology and its members across all social strata of Germany solely by reason of their belief. This constitutes a blatant violation of their human rights as guaranteed by the ICCPR, the EU HR Convention and the Helsinki Accords. They do not belong into the free and democratic society of Germany that was rebuilt in 1949 on the principles of human rights.

The UN Human Rights Committee, in its concluding observations on Germany of the 18th of November 1996, already found that Germany was violating the ICCPR by targeting and discriminating against religious minorities with the use of such practice as the “sect filter”²:

“16. The Committee is concerned that membership in certain religious sects as such may in some Länder of the State party disqualify individuals from obtaining employment in the public service, which may in certain circumstances, violate the rights guaranteed in articles 18 and 25 of the Covenant. The Committee also recommends the State party to discontinue the holding of ‘sensitizing’ sessions for judges against the practices of certain designated sects.”

The Special Rapporteur of the UN Commission on Human Rights, Mr. Abdelfattah Amor, in his report of 22 Dec 1997 on his visit to Germany in accordance with Commission on Human Rights resolution 1996/23 had therefore advised Germany the following:

“102. The Special Rapporteur also believes that the State, beyond day-to-day management, must implement a strategy to prevent intolerance in the field of religion and belief. He believes that sustained efforts are required to promote and develop a culture of tolerance and human rights. The State must play an active role in developing awareness of the values of tolerance and non-discrimination in the field of religion and belief. Lasting progress may be achieved, mainly through education and above all the school, by ensuring that a human rights culture is imparted by school curricula and textbooks and by properly trained teachers. This educational strategy must not only propagate a culture of tolerance among the population, by inculcating values underpinned by human rights, but also develop awareness and reasoned and reasonable vigilance towards any form of abuse or threat in the field of religion and belief.”

The remedy for the intolerance Scientologists face in Germany, besides applying the letter and spirit of the relevant human rights principles stated above, is for German officials to sit down with Church professionals and resolve the differences and misunderstanding that perpetuate the problem. We kindly call respectfully request on ODIRH to investigate this matter and assist in establishing a real dialogue between

² UN Human Rights Committee Concluding Observations: Germany (18/11/96), (CCPR/C/79/Add.73)

the Church and government, in order to put an end to these blatant discriminatory practices.

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