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Court:Taxes and fees imposed by German churches did not violate religious freedom

Taxes and fees imposed by German churches did not breach European human rights law, Strasbourg judges have ruled.



Under German law, some churches and religious societies are entitled to levy a church tax and/or fee on their members. The five applicants complained that, when such taxes or fees were calculated and levied on the basis of the joint income of both the applicant and their spouse, it violated their right to freedom of religion.

In particular, they complained variously of being obliged to pay for their spouse's special church fee when they themselves were not a member of the church; of requiring the financial assistance of their spouse to pay their own special church fee, making them dependant on their spouse for their freedom of religion; or of being obliged to pay an unfairly high church tax, as it had been calculated taking their spouse's income into account.

Some applicants also complained that the taxes or fees had been discriminatory.

In today's Chamber judgment, in the case of Klein and Others v. Germany (application nos. 10138/11, 16687/11, 25359/11 and 28919/11) the European Court of Human Rights held, unanimously, that most of the complaints under Article 9 (freedom of religion) of the European Convention of Human Rights were inadmissible.

In particular, this was because in these cases the taxes/fees had been levied not by the State, but by the applicants' churches – which the applicants were free to leave under German law. As such, in most of the cases the levying and calculation of the taxes/fees had been an autonomous church activity, which could not be attributed to the German State.

However, in one case the State had been involved in levying a special church fee on an applicant who was not a member of the relevant church. This was because the fee which had been levied on the applicant's wife had been subtracted directly from the applicant's tax reimbursement claim by way of an off-set – therefore subjecting the

applicant to his wife's financial obligations towards her church.

However, this off-set had arisen because the couple themselves had chosen to file a joint tax assessment, and it appeared that the applicant could have cancelled it by lodging a settlement notice. In these circumstances, the off-set had been a proportionate way for the State to try to rationalise the couple's tax liabilities, which had involved no violation of the convention.

The court also held inadmissible all of the applicants' further complaints under Article 8 (right to respect for private and family life), Article 9 (freedom of religion) and Article 12 (right to marry), taken alone and/or in conjunction with Article 14 (prohibition of discrimination).

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