

# Scientology v. Germany: 50 years of legal battles

HRWF (05.10.2020) – As Scientologists celebrate the 50<sup>th</sup> anniversary of the settlement of their Church in Germany, Ivan Arjona, their European representative, requested a UN investigation into discrimination against Scientologists in Germany during a statement at the 45<sup>th</sup> session of the UN Human Rights Council in Geneva.

Arjona reminded Germany's representative to the UN that "over the past three decades, dozens of German courts have condemned the actions of the government against Scientologists at different levels and recognized their rights as per Article 4 of [the German] Constitution." Article 4 decrees that: "Freedom of faith and conscience, and freedom to profess a religious or philosophical creed shall be inviolable."

He also stressed that the German executive powers have ignored the decisions of the German courts for almost 50 years now.

## ***"Sect filters" and discrimination***

Last year, at the OSCE/ODIHR Human Dimension Implementation Meeting (HDIM) in Warsaw, some NGOs criticised Germany for stigmatising and discriminating against people who believe in the teachings of Scientology.

In Bavaria and a few other German Länder, the authorities use what they call "sect filters" when someone applies for a public job, a public service contract or a government bid. These "sect filters" contain questions exclusively targeting the possible affiliation or relationship of the candidate with

Scientology. If so, the candidate is disqualified. If the applicant refuses to fill in the questionnaire, they are also disqualified.

“This is not only intrusive and discriminatory, but this gravely violates the international human rights standards and stigmatises the followers of Ron Hubbard’s teachings as sub-citizens,” one of the NGOs said. The teachings of Scientology are not banned in Germany and spreading them is not a criminal activity. Therefore, their followers should not be treated differently from the followers of the Bible, the Coran, the Bhagavad Gita, the Buddhist or any other teachings.

The German delegation to the OSCE replied to these challenges by stating that in their country Scientology is not recognized as a religious community.

However, this answer was irrelevant for two main reasons. Firstly, according to the OSCE/ODIHR standards, a non-recognition of a religious or belief system by the state does not justify discrimination against its followers. Secondly, German courts have already ruled that Scientology was entitled to the protection of Article 4 of the Basic Law on Freedom of Religion or Belief.

***German court decisions finding Scientologists and their Church to be protected under Article 4 of the German Constitution***

1. *Church of Scientology of Berlin v. City of Berlin*, 27 February 2009, Berlin Administrative Court.
2. *B. v. City of Hamburg*, 27 June 2008, Hamburg Administrative Court.
3. *Church of Scientology of Germany, Church of Scientology of Hamburg v. City of Hamburg*, 7 March 2008, Hamburg Civil Court of Appeal.
4. *B. v. City of Hamburg*, 19 December 2007, Hamburg State Administrative Court of Appeal (referred to in #2 above at page 5).

5. *Church of Scientology of Berlin v. City of Berlin*, 29 June 2006, Administrative Court Berlin.
6. *B. v. City of Hamburg*, 15 June 2006, Administrative Court Hamburg.
7. *K. v. City of Hamburg*, 15 December 2005, Federal Administrative Supreme Court.
8. *Winkler v. State of Bavaria*, Federal Supreme Administrative Court, March 2005.
9. *Celebrity Centre Church of Scientology Munich v. County of Upper Bavaria*, 2 November 2005, Bavarian State Administrative Court of Appeal.
10. *K. v. City of Hamburg*, 17 June 2004, Hamburg State Administrative Court of Appeal.
11. *Church of Scientology of Dusseldorf v. City of Dusseldorf*, District Court Dusseldorf, March 2004.
12. *Church of Scientology Stuttgart v. State of Baden-Württemberg*, 12 December 2003, State Administrative Court of Appeal Baden-Württemberg.
13. *Church of Scientology International v. City of Hamburg*, 22 April 2003, State Administrative Court of Appeal Hamburg.
14. *Church of Scientology International v. City of Munich*, 26 March 2003, Munich Administrative Court.
15. *Z. v. Church of Scientology Berlin*, 26 September 2002, Federal Supreme Labor Court.
16. *Church of Scientology International v. City of Hamburg*, July 2002, State Administrative Court of Appeal Hamburg.
17. *Scientology Mission Ulm v. City of Kempten/Allgäu*, 25 November 1996, Administrative Court Augsburg.
18. *Church of Scientology Bavaria v. Federal Labor Office*, 19 January 2000, Social Court Nuremberg.
19. *Church of Scientology Stuttgart v. City of Stuttgart*, 17 November 1999, Administrative Court Stuttgart.
20. *H. v. Church of Scientology Hamburg*, 5 January 1998, District Civil Court of Hamburg.
21. *Scientology Mission Neue Brücke v. State of Baden-*

- Württemberg*, 6 November 1997, Federal Supreme Administrative Court.
22. *City of Freiburg v. E.*, 6 February 1996, District Court Freiburg.
  23. *Scientology Mission Neue Brücke v. State of Baden-Württemberg*, 2 August 1995, State Administrative Court of Appeal Baden-Württemberg.
  24. *Church of Scientology Hamburg v. City of Hamburg*, 16 February 1995, Federal Supreme Administrative Court.
  25. *Church of Scientology Hamburg v. City of Hamburg*, 24 August 1994, State Administrative Court of Appeal Hamburg.
  26. *S. v. Scientology Mission Nymphenburg*, 30 March 1993, Superior Civil Court Munich.
  27. *Church of Scientology Germany v. State Baden-Württemberg/ABI*, 26 August 1992, Administrative Court Stuttgart.
  28. *G. v. Church of Scientology Frankfurt*, 27 May 1992, Superior Civil Court of Frankfurt.
  29. *Scientologist v. Newspaper Publishing House*, June 1992, Civil Court of Appeal Stuttgart.
  30. *State Attorney with Superior Court Berlin v. Church of Scientology of Berlin*, 22 January 1991.
  31. *City of Hannover v. H.*, 19 September 1990, District Court Hannover.
  32. *Church of Scientology Frankfurt v. City of Frankfurt*, 4 September 1990, Administrative Court Frankfurt.
  33. *P. v. Church of Scientology Frankfurt*, 7 June 1989, Superior Civil Court Frankfurt.
  34. *Church of Scientology Berlin v. State of Berlin*, 12 October 1988, Administrative Court Berlin.
  35. *Church of Scientology Celebrity Centre Hamburg v. City of Hamburg*, 17 February 1988, Superior Civil Court Hamburg.
  36. *Church of Scientology of Frankfurt v. City of Frankfurt*, 7 October 1987, State Attorney with the Superior Court of Frankfurt.

37. *Scientology Mission Ulm v. State of Baden-Württemberg*, 3 September 1986, Administrative Court Sigmaringen.
38. *Church of Scientology Germany v. City of Munich*, 10 December 1985, Bavarian State Administrative Court of Appeal.
39. *Church of Scientology Hamburg v. City of Hamburg*, 14 October 1985, Administrative Court Hamburg.
40. *Church of Scientology Germany v. City of Munich*, 25 June 1985, Bavarian State Administrative Court of Appeal.
41. *In re City of Stuttgart v. K.*, 20 May 1985, District Court Stuttgart.
42. *In re City of Stuttgart v. M.*, 30 January 1985, District Court Stuttgart.
43. *Church of Scientology Germany v. City of Munich*, 25 July 1984, Administrative Court Munich.
44. *X. v. City of Berlin*, 11 February 1981, Administrative Court Berlin.
45. *Church of Scientology Germany v. Federal Republic of Germany*, 25 September 1980, Federal Supreme Court.
46. *S. v. Federal Republic of Germany*, 27 August 1980, Administrative Court Frankfurt.
47. *X. v. Federal Republic of Germany*, 14 December 1978, Administrative Court Darmstadt (and appeal of 14 November 1980).
48. *F. v. Church of Scientology Stuttgart*, 8 December 1976, District Court Stuttgart.

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**Germany: Anti-Semitic attack**

# at Hamburg synagogue

*A German man dressed in military fatigues attacked another man outside a synagogue in the German city of Hamburg, according to police. Germany's foreign minister said anti-Semitic attacks are not isolated incidents.*

DW News (04.10.2020) – <https://bit.ly/3iASrvU> – A man attacked a Jewish citizen outside the Hohe Weide synagogue in Hamburg on Sunday, according to police.

The man swung a foldable shovel, injuring a 26-year-old before the synagogue's security personnel were able to restrain him. He was later taken into custody by Hamburg police. Germany's DPA news agency reported the 29-year-old suspect was carrying a piece of paper with a swastika in his pocket.

The victim, reported to be a Jewish student, suffered serious injuries to the head and was admitted to a local hospital for treatment, according to the daily Süddeutsche Zeitung. His injuries are serious though not life-threatening.

Police said the attacker, a German with Kazakh roots, was accused of causing grievous bodily harm and appeared to be acting alone. A police spokesperson said the motive for the attack was still under investigation and that the suspect was "extremely confused" leaving investigators unable immediately to question him.

Members of the city's Jewish community were at the synagogue celebrating Sukkoth.

***'Why does this keep happening?'***

German Foreign Minister Heiko Maas denounced the attack as anti-Semitic and called on people to show more civil courage.

"This is not an isolated incident, this is disgusting anti-Semitism and we must all oppose it!" Maas wrote in a tweet.

"As we mark the one-year anniversary of the Yom Kippur attack in Halle, Germany, which left two dead, I am saddened to learn that once again, this time on the Jewish holiday of Sukkot, a German Jewish community is confronting a violent, antisemitic act of terror," World Jewish Congress President Ronald S. Lauder said in a statement.

"We must ask ourselves, and German local and national authorities must address the question – why does this keep happening? Why is anti-Semitism thriving, and why does anyone believe there is room for such hate?" Lauder added. "Our young people must not learn from those who hate. The German government must take responsibility in strengthening education so that the next generation understands that hatred of any kind is never permissible. The long-term viability of Jewish life in Germany depends on it."

***Jewish community shaken***

The German Orthodox Rabbinical Conference (ORD) has described the attack as “another shock to the Jewish community in Germany.”

“It is unbearable to see hatred and violence against Jews erupt again and again on German streets, and this comes during the holiest Jewish holidays and one year after the terrible attack in Halle,” said ORD chairman Avichai Apel on Sunday.

Apel added “Jewish life as a whole must be better protected in this country,” and demanded that German society “take even more decisive action against hate and incitement on the internet, against right-wing extremist agitators, against the Neo Nazi scene and crude conspiracy theorists, and do more for prevention, education and the promotion of civic courage.”

### ***Nearly one year since Halle attack***

The attack in Hamburg came ahead of the one-year anniversary of a deadly Yom Kippur synagogue attack in the eastern German city of Halle. In that attack, a man armed with a gun attempted to break down a door to a synagogue as worshipers gathered for the holiest day in the Jewish calendar. Though he was not able to enter the synagogue, two people were shot dead and others were injured.

Germany has recently seen an increase in anti-Semitic crimes, leading Chancellor Angela Merkel to declare some Jews do not feel safe in Germany.



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# German EU Presidency: the case of Baloch refugees

HRWF calls upon EU member states not to deport non-violent Baloch human rights defenders and political activists back to Pakistan but to grant them political asylum. HRWF is monitoring the cases of Baloch refugees in Germany (42 cases: 10 positive decisions and 32 negative decisions) and other EU member states. EU TODAY has just published an op-ed on this issue.

*The fate of asylum seekers from conflict-torn zones under the upcoming German EU Presidency*

By Eli Hadzhieva

EU Today (08.06.2020) – <https://bit.ly/3dHmj8o> – Last month, the exiled Baloch journalist Sajid Hussain was found dead in a river outside Uppsala, Sweden. The mysterious death of the journalist, on European soil, raised concern about the safety of some 600 Baloch activists seeking safe haven in the EU, writes *Eli Hadzhieva*.

Pakistan is among the top 5 countries of origin when it comes to asylum applications in the EU but over 90 percent of these applications are being rejected in the bloc. Although the security situation in Pakistan may not be as dire as other source countries, such as Syria, Iraq and Afghanistan, factors, including political violence, insurgent violence,

ethnic conflicts and sectarian violence, as well as instabilities stemming from neighbouring countries, contribute to migratory flows. These flows do not happen for purely economic reasons contrary to arguments of many EU Member States, which use this justification to exclude asylum-seekers from Pakistan's Baluchistan province, for example.

Crackdowns on peaceful protestors are commonplace in countries with weak rule of law, where fundamental human rights, such as freedom of expression and freedom of peaceful assembly, which are enshrined in the constitution and in international law, are not being upheld. What is even worse is the lack of access to fair trial and the possibility of infinite detention of suspected criminals in such regimes. In the Islamic Republic of Pakistan, state actors are even said to be implicated in enforced disappearances and extrajudicial killings with absolute impunity. And capital punishment remains a legal option. Hence, thousands are fleeing these regimes to seek protection in other states.

Pakistan's southwestern province is home to the Baloch minority, which has a different ethnicity, language and religious practice than Pakistan's Punjabi majority and Pashtuns. Bordering Iran and Afghanistan, the least developed region of Pakistan despite its rich minerals, has recently come to the fore with the China-Pakistan Economic Corridor passing through its Gwadar port. However, as with the resource distribution at the federal level, the local population is doubtful about the benefits of these investments in view of ensuring future economic and political stability.

The prosecution of human rights activists in Pakistan is well documented by human rights watchdogs, such as the Amnesty

International, which points out to abductions, disappearances, torture and executions in Baluchistan, where mass graves were discovered.

According to the Amnesty International, human rights activist Abdullah Abbas is one such case, who had to flee Pakistan out of fear for his life. Having participated in peaceful demonstrations while investigating abductions and extrajudicial killings in Baluchistan, he was beaten up, his family house was destroyed in raids, and he was eventually abducted, illegally detained and tortured. The life of the human rights activist, who is currently waiting for a refugee status in Germany, would be in danger if he is forcefully returned to his home country in addition to risks of arbitrary detention, enforced disappearance and torture.

In line with the principle of non-refoulement under the Geneva Convention, EU Member States have the obligation to provide protection for persons facing prosecution 'for reasons of race, religion, nationality, membership of a particular social group or political opinion'. EU Member States shall not be derailed from such international and moral obligations due to populist and nationalist pressures. Yet, the record number of deportations in 2019 tells a different story about Germany's migration-related bureaucracy, which is described as 'racist, Kafkaesque and downright unpleasant' by Deutsche Welle. The new German migration legislation of 2019 is also viewed as controversial as it facilitates the deportation of failed asylum seekers.

Such controversial asylum and migration policies should not become the blueprint for the new Common European Asylum System, which is now on the EU's agenda, especially in view of

the upcoming German EU Presidency. Asylum seekers from conflict-torn regions, such as Baluchistan, should be offered proper protection in EU Member States, as per international human rights standards. Especially given the lack of their access to fair trial and to dignified detention conditions, which deprives them of their fundamental freedoms and puts their lives in danger in their home countries.

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## **871 attacks reported against Muslims in Germany in 2019**

Daily Sabah (29.03.2020) – <https://bit.ly/3atZqUo> – Some 871 attacks targeted the Muslim community in Germany last year, according to a report by a German daily Sunday. Two Muslims were killed, while 33 others were injured in these attacks, Neue Osnabrücker Zeitung daily reported, citing the government's response to a question submitted by the Left Party (Die Linke).

According to Left Party's spokesperson Ulla Jelpke, the number may be higher by up to 90 more cases when the final number has been released, based on her "experience."

"The hatred of Muslims continues to be displayed in violent attacks, threats and insults," Jelpke told the daily, adding that it is still too early to have a clear picture on the total number of cases.

"Unfortunately, we have to expect that there are more similar ticking time bombs," she underlined.

Germany has been recording Islamophobic crimes separately since 2017. The total number of cases in 2019 has not been

officially announced. In 2018 there were 910, including 48 attacks on mosques alone, a little lower than 2017 with 1,095 crimes. More than 90% of these were attributed to politically motivated crimes by the far-right. Considering that the overall number of crimes has decreased, the assaults have increased, Die Tageszeitung stressed. In 2017 authorities reported 56 Islamophobic assaults with a total of 38 injuries. In 2018, there were 74 offenses with a total of 52 injuries – including two attempted murders.

Every other day throughout the course of 2019, a mosque, a Muslim institution or a religious representative in Germany was targeted in anti-Muslim attacks, another inquiry by the Left Party showed recently.

The figure was collated by the German Interior Ministry under the scope of the new “Attack Catalogue,” listing anti-Muslim attacks on cultural associations, cemeteries, mosques, religious institutions, representatives, symbols and other places of worship since January 2019. The catalog only contains a portion of all the crimes against Islam but has a broader scope than only listing the attacks on mosques.

The latest violent anti-Muslim attacks took place in the town Hanau on Feb. 19. Tobias Rathjen, a terrorist harboring racist views, gunned down nine people of immigrant backgrounds, including five Turkish nationals, before killing himself. The Hanau attack ignited the debate over the seriousness of far-right terror threats often ignored by authorities. It was one of the worst acts of terrorism with racist motives in recent memory.

In a speech following the attack, German Interior Minister Horst Seehofer acknowledged the act as a “terrorist attack.” He noted that it was the “third right-wing terrorist attack in just a few months.” “Danger from right-wing extremism, anti-Semitism, and racism is very high in Germany,” Seehofer said. He also dismissed references to the assailant’s psychological

state as being responsible for the killings. "The racist motivation for this crime is in my view incontestable and cannot be relativized by anything."

Germany is home to 81 million people and is home to the second-largest Muslim population in Western Europe after France. Of the country's nearly 4.7 million Muslims, at least 3 million are of Turkish origin.

Racist attacks targeting Muslims or immigrants increasingly make the headlines as white supremacists become more efficient in an age where their ideals, or at least parts of them, are going mainstream. Not a single, large terrorist group harboring a racist agenda against Muslims and immigrants exist, but copycat attacks apparently inspire more to take up arms.

The tolerant political climate under the pretext of freedom of speech helped far-right sympathizers with violent tendencies expand their support.

Facing growing far-right extremism, Germany has been shaken by more than 100 bomb and death threats sent to lawyers, politicians and institutions last year, apparently, by German neo-Nazi groups, local media reported, revealing the threat of a growing neo-Nazi presence in the country.

The extremist group is known as "Reichsbürger" is considered a terrorist organization in Germany where its members procure arms and ammunition. Reichsbürger members do not recognize the modern German state as legitimate, citing technicalities about the fall of the Nazi Third Reich in May 1945. The Reichsbürgers have no leadership or "cells," but are loosely associated with each other only by their common ideas that aren't even concrete.

In October, Chancellor Angela Merkel's government outlawed the sale of guns to members of extremist groups monitored by security agencies and obliged online platforms to inform

police about hate content. Those measures followed the killing of a pro-immigration German politician in June and an attack four months later on a synagogue and a kebab shop in Halle by an anti-Semitic gunman, who livestreamed his actions.

Figures show a 320% rise in racist terrorism in the West in the past five years. Under the pretext of “Islamization” of the countries they live in, racist terrorists went from attacks on mosques to mass killings. Anders Behring Breivik of Norway who slaughtered 77 people in July 2011 is viewed as an inspiration for more attacks to follow. Four years later, Anton Lundin Pettersson, harboring similar views with Breivik, killed four students with immigrant backgrounds in Sweden. In 2016, 10 people were killed in Germany’s Munich in another racist act of terrorism.

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## **GERMANY: ‘A step away from hell’: the young male refugees selling sex to survive**

*Photographer Heba Khamis spent a year and a half documenting the lives of ‘black birds’: the male Afghan and Iranian sex workers in Berlin’s Tiergarten.*



Photograph by Heba Khamis

By Kate Hodal

The Guardian (21.02.2020) – <https://bit.ly/2Thhjy8> – The allure of romance is never far away in Berlin's Tiergarten park, a vast 520-acre expanse home to manicured lawns, dense forest, a picturesque boating lake and the city zoo. As families lay out picnics and millennials fire up barbecues, those seeking something more illicit head to the park's wooded north, where young male Afghan and Iranian refugees can be found selling sex to the hundreds of buyers who pass through Tiergarten each day.

In 2017, Egyptian photographer Heba Khamis was studying in Hanover when a flurry of news reports about Tiergarten's young male refugees made national headlines. "No one could get [photographic] access to the guys, but the German media were saying they were dangerous and to stay away [from them], that they were doing bad stuff," said Khamis. "I felt I needed to see for myself."



Initially accompanied by a male Farsi-speaking friend, Khamis spent ages searching for the refugees in Tiergarten, asking random park-goers if they'd seen or heard anything "unusual". She stumbled upon a pair of ping-pong players, who said they knew nothing about the prostitution in the park, yet as Khamis spent more time in Tiergarten it became clear that the ping-pong tables and the area around them were at the very heart of the sexual activity. "If you didn't pay any attention, you wouldn't notice it," says Khamis, 31. "But the prostitution was happening right in front of them [around the public toilets]. The elephant was in the room and no one wanted to see it."

Khamis began to visit the park every day and, through persistence and with the aid of translators, managed to make contact with the "boys", most of whom were ethnic Shia Hazaras from Afghanistan, a minority long persecuted by the Taliban, ranging in age from 15 to 32. Although they were wary of the press, one of the men, Ali\*, became Khamis's go-to guide, introducing her to other boys in the park and their collective way of life. Over the course of a year and a half, she ended up watching – and documenting – as relationships blossomed, long-awaited papers came through and the boys moved out of the park, or didn't.

Germany legalised prostitution in 2002 and, in 2017, passed a law requiring sex workers to register with local authorities in order to prevent human trafficking and exploitation. But the 30-odd Afghan and Iranian men Khamis was photographing fell under no such support system, as refugees are barred from working legally or attending school while they wait for their documents. "When you are a refugee without papers, and you are Muslim and come from a background where gay sex is shameful and taboo, it is a very different situation," she says. "These

guys don't represent 'prostitution in Germany' in any way. There are only a few of them, and this is a very different scenario."

Heavily saturated in earthy browns and greens, Khamis's photos have an eerily ethereal quality, the dappled light of the forest reflecting off the boys' necklaces, their youth made evident by their protruding clavicles and bony backs.

The result is deeply unsettling, reflecting the boys' experience of the park. "Once you are in the park," says one of Khamis's subjects Ahmed, an Afghan who had been selling sex in the park for three years, "you are one little step away from hell." For Khamis, the boys' search for belonging and humanity was what compelled her to continue photographing.

"When you look at them, [you can see] they're not enjoying it at all. They hurt themselves, they have depression. On all of them you will find [self-inflicted] cigarette burns or cuts. Everyone wants to get out of the park."

Drugs feature heavily in the boys' lives, numbing them and providing a small respite from the agony of waiting to become "legal", says Khamis. As Germany prioritises assistance to refugees from countries with an ongoing conflict, asylum seekers' papers from non-conflict countries such as Afghanistan and Iran take longer to complete, and the applicants are more likely to be deported, says Khamis.

The singularity of their situation – engaging in culturally

taboo work while waiting in political limbo – inspired Khamis to call the boys “black birds”, a nod to both the numerous blackbirds in the park and a play on the term “black sheep”. “When you are different in the family, you are the ‘black sheep’, and for me these guys were the same: their whole lives they’ve been undocumented, unable to ‘fly’, unable to live normal lives, unable to find anywhere that will accept them.”

While some boys were lucky enough to get their papers and move out of the refugee camps or even the park itself, others were required to find another means of escape. For some that meant entering into relationships with their regular buyers (the photo of one such couple won Khamis second prize in the 2019 World Press Photo portraits category), or converting to Christianity as means of claiming political asylum. Still others have remained in Tiergarten.

Khamis began her photographic career covering the 2011 and 2013 revolutions in Egypt, then turned her focus to socially taboo subjects relating to the body, such as breast ironing in Cameroon and Egypt’s transgender community. The practice of focusing on such “unacceptable” issues has transformed her as a person, she says.

“When you work long term on stories it’s not just one image you deliver, you invest your whole life in these stories and they teach you lessons and change you in the long run,” says Khamis.

“You become less and less judgmental. You no longer look at things from the surface of your own perspective; you try to

see through the people instead. From outside [Tiergarten], you could look at these boys and say, 'Go work in the black market instead [of doing sex work]'. But they have fought their whole lives, first being born in Afghanistan, then fleeing to Iran and finally to Europe, thinking they will have a nice life at last. Yet they no longer have a home – or a destination.

“This is [what] human failure [looks like]: sometimes we all fight so hard for something that once we finally arrive, we're so tired from fighting that we just surrender.”

\* All subjects' names have been changed to protect identities.