

March 2011

Lautsi and Others v. Italy [GC] - 30814/06

Judgment 18.3.2011 [GC]

Article 2 of Protocol No. 1

Respect for parents' philosophical convictions

Respect for parents' religious convictions

Display of crucifixes in State-school classrooms: *no violation*

Facts – At a meeting of the governors of the state school attended by her children the applicant pointed out that the presence of crucifixes in the classrooms infringed the principle of secularism according to which she sought to educate her children. Following a decision by the school's governors to keep crucifixes in classrooms, she instituted proceedings in the Administrative Court. In the meantime the Minister of Education adopted a directive instructing school heads to ensure that crucifixes were displayed in classrooms. The applicant's claim was dismissed by a decision upheld at final instance by the *Consiglio di Stato*. The applicant and her two sons (the second and third applicants) lodged an application with the European Court, which gave a judgment on 3 November 2009 finding unanimously that there had been a violation of Article 2 of Protocol No. 1 taken together with Article 9 of the Convention (see Information Note no. 124).

Law – Article 2 of Protocol No. 1: The decision whether crucifixes should be present in State-school classrooms formed part of the functions assumed by the respondent State in relation to education and teaching and, accordingly, fell within the scope of the second sentence of Article 2 of Protocol No. 1. That made it an area in which the State's obligation to respect the right of parents to ensure the education and teaching of their children in conformity with their own religious and philosophical convictions came into play. The crucifix was above all a religious symbol. Whilst it was understandable that the first applicant might see in the display of crucifixes in the classrooms of the State school formerly attended by her children a lack of respect on the State's part for her right to ensure their education and teaching in conformity with her own philosophical convictions, her subjective perception was not in itself sufficient to establish a breach of Article 2 of Protocol No. 1.

The decision whether crucifixes should be present in State-school classrooms was, in principle, a matter falling within the margin of appreciation of the respondent State. Moreover, the fact that there was no European consensus on the question of the presence of religious symbols in State schools spoke in favour of that approach. That margin of appreciation, however, went hand in hand with European supervision. It was true that by prescribing the presence of crucifixes in State-school classrooms – a sign which undoubtedly referred to Christianity – the regulations conferred on the country's majority religion preponderant visibility in the school environment. That was not in itself sufficient, however, to denote a process of indoctrination on the respondent State's part. Furthermore, a crucifix on a wall was an essentially passive symbol that could not be deemed to have an influence on pupils comparable to that of didactic speech or participation in

religious activities. The Grand Chamber did not agree with the approach of the Chamber, which had found that the display of crucifixes in classrooms would have a significant impact on the second and third applicants, aged eleven and thirteen at the time. The effects of the greater visibility which the presence of the crucifix gave to Christianity in schools needed to be placed in perspective. Firstly, the presence of crucifixes was not associated with compulsory teaching about Christianity. Secondly, Italy opened up the school environment to other religions in parallel. In addition, the applicants had not asserted that the presence of the crucifix in classrooms had encouraged the development of teaching practices with a proselytising tendency; neither had they claimed that the second and third applicants had experienced a tendentious reference to that presence by a teacher in the exercise of his or her functions. Lastly, the first applicant had retained in full her right as a parent to enlighten and advise her children, to exercise in their regard her natural functions as educator and to guide them on a path in line with her own philosophical convictions. Accordingly, in deciding to keep crucifixes in the classrooms of the State school attended by the first applicant's children, the authorities had acted within the limits of the margin of appreciation left to the respondent State in the context of its obligation to respect, in the exercise of the functions it assumed in relation to education and teaching, the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Conclusion: no violation (fifteen votes to two).

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