

## ***Lautsi and Others v. Italy* - 30814/06**

Judgment 3.11.2009 [Section II]

### **Article 9**

#### **Article 9-1**

#### **Freedom of religion**

#### **Manifest religion or belief**

### **Article 2 of Protocol No. 1**

#### **Respect for parents' philosophical convictions**

#### **Respect for parents' religious convictions**

Display of crucifixes in State-school classrooms: *violation*

#### **[This case was referred to the Grand Chamber on 1 March 2010]**

*Facts* – In 2001/2002 the applicant's two children attended a State school in which a crucifix was displayed in every classroom. Considering this to be contrary to the principle of secularism in which she wished to educate her children, the applicant brought administrative proceedings in 2002 against the head teacher's decision to allow the crucifixes in the classrooms. Her complaints were dismissed by a decision that was upheld at final instance by the *Consiglio di Stato*. In 2007 the Ministry of State Education issued a directive to head teachers, recommending that crucifixes be on display.

*Law* – Article 2 of Protocol No. 1, in conjunction with Article 9 of the Convention: The State had an obligation to refrain from imposing beliefs, even indirectly, in premises where individuals were dependent on it, or in places where they were particularly vulnerable. The education of children was a particularly sensitive area, since the State's binding authority was imposed on minds which still lacked the critical capacity that would enable them to distance themselves from the message transmitted through a preference shown by the State in religious matters. In the Court's view, the symbol of the crucifix had many connotations, of which the religious one was dominant. The presence of the crucifix in classrooms could not be missed, and it was necessarily perceived in the context of State education as an integral part of the school environment and could therefore be considered a "powerful external symbol". Thus, the presence of a crucifix 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 that was characterised by a given religion. Negative freedom, which was not limited to the absence of religious services or religious education, extended to practices and symbols which expressed, in particular or in general, a belief, a religion or atheism. This negative freedom deserved particular protection where 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 required to observe confessional neutrality in the context of public education, where attending classes was compulsory, irrespective of religion, and where the aim ought to 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 it was reasonable to associate 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. Indeed, the case-law of the Italian Constitutional Court supported that position. The compulsory display of a symbol of a given confession in the exercise of public duties, in specific situations that came under government control, especially in classrooms, restricted the rights of parents to educate their children in conformity with their convictions, and the right of children to believe or not to believe. Such restrictions were incompatible with the State's duty to observe neutrality in the exercise of public duties, and in particular in the field of education.

*Conclusion:* violation (unanimously).

Article 41: EUR 5,000 in respect of non-pecuniary damage.

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