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NEWS REPORT

Country:	Germany
Title:	Headscarf of trainee lawyer
Date:	10 April 2018
Expert:	Mahlmann, Matthias
<u>Context</u>	
Issue at stake:	Permissibility of head scarf worn by trainee lawyer
Ground of discrimination:	Religion/belief
Source:	Bavarian Administrative Appeal Court (Bayerischer Verwaltungsgerichtshof), 7 March 2018, Az. 3 BV 16.2040
Field:	Employment
Applicable law:	Art 4 Basic Law (Grundgesetz)

Content

Case development: The court decision concerns a trainee lawyer (Referendar) who wished to wear a headscarf due to her religious faith while conducting judicial functions. Trainee lawyers are in the German system employed by the States (Länder) during their 2-year training. The court authorities denied her this possibility. A first instance decision took this as a violation of her right to freedom of belief (Art. 4 Basic Law), Augsburg Administrative Court (Verwaltungsgericht Augsburg, VG Augsburg), 30 June 2016, Au 2 K 15.457. The claimant appealed against this decision.

Decision of the Court: The appeal court decided that the complaint was inadmissible. It argued that there had been no sufficiently grave violation of freedom of religion. The claimant had the opportunity to pursue her training. The decision of the court authorities concerned only a small part of her education. In addition, she was not entitled but only allowed to perform the judicial functions in question, depending on the decision of the court she worked for.

Key points of analysis: The decision reverses the findings of the case Augsburg Administrative Court (Verwaltungsgericht Augsburg, VG Augsburg), 30 June 2016, Au 2 K 15.457 that stirred considerable debate about the presence of religious symbols worn by judges. The appeal court decided on procedural grounds and did not engage with the substantive question of the permissibility of such symbols in the court room.

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