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FLASH REPORT

Country:	Germany
Title:	No constitutional complaint in <i>IR v JQ</i> case
Date:	4 July 2019
Expert:	Matthias Mahlmann
<u>Context</u>	
Issue at stake:	No constitutional complaint against implementation of CJEU, <i>IR v JQ</i>
Grounds of discrimination:	Religion or belief
Field of application:	Employment
Source:	Constitutional complaint
Applicable law:	Art. 4.2 Directive 2000/78/EC

Content

Case: The archdiocese of Cologne has decided not to file a constitutional complaint against the decision of the Federal Labour Court (*Bundesarbeitsgericht*)¹ implementing the decision of CJEU, *IR v JQ*.² The case concerned a clinic director who was dismissed because of breach of duties of loyalty to his employer with a religious orientation because of remarriage contrary to Catholic religious prescriptions. It argues that given the current internal regulations of the Catholic Church for dismissal, the clinic director would not be dismissed because of remarriage. Consequently, the archdiocese sees no reason for a constitutional complaint.

Key points of analysis: Unlike the *Diakonie* which is part of the Protestant Church in Germany which has lodged a constitutional complaint³ against the decision of the Federal Labour Court⁴ implementing the decision of the CJEU, *Egenberger*⁵ the archdiocese does not file a constitutional complaint. This is so despite both cases concerning a common issue which is the autonomy of religious organisations regarding the organisation of their labour relations in light of their religious ethos. Given the changed internal regulations of the Catholic Church in this area, there are particular circumstances of the case explaining this decision. The reason is not a substantially different approach to the fundamental issue of religious autonomy in labour relations of the Catholic and Protestant Church. Accordingly, the archdiocese underlined that it will use the opportunity in the framework of the proceedings in the *Egenberger* case at the Federal Constitutional Court to outline its fundamental position concerning the autonomy of religious organisations in labour relations.

Internet link source:

<https://www.erzbistum-koeln.de/news/Keine-Verfassungsbeschwerde-im-Chefarzt-Fall/>.

¹ Federal Labour Court (Bundesarbeitsgericht), 20 February 2019, 2 AZR746/14.

² CJEU, Judgement of 11.9.2018, C-68/17, *IR v JQ*.

³ See previous flash report No. 053-DE-ND-2019-Constitutional complaint Egenberger (not yet published).

⁴ Federal Labour Court (Bundesarbeitsgericht, BAG), 25 October 2018, 8 AZR 501/14.

⁵ CJEU, Judgment of 17.4.2018, C-414/16, *Egenberger*.