

Federal Constitutional Court Hears Arguments in Church/State Case: Should the Jehovah's Witnesses be Granted Status as a Quasi-Public Entity?

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[1] The Second Senate of the Federal Constitutional Court (FCC) heard oral arguments on September 20th on a Constitutional Complaint brought by the Jehovah's Witnesses. The Church is seeking the reversal of a decision of the Federal Administrative Court (FAC) that ruled in 1997 that the Jehovah's Witnesses were not entitled to the quasi-public status enjoyed by the Catholic and Protestant Churches in Germany pursuant to Article 140 of the German Basic Law (GG). Article 140 reestablished Articles 136, 137, 138, 139 and 141 of the Weimar Constitution of 1919. The quasi-public status is identified by the German phrase "Körperschaft des öffentlichen Rechts" and translates as "religious societies that are corporations under public law."

[2] The quasi-public status affords a number of privileges, including the right to tax church members through the public tax system (Article 137(6) (Weimar)). The criteria for a church attaining such status (if it did not enjoy this status in the past) is that "[its] constitution and the number of [its] members give[s] assurance of [its] permanency." (Article 137(5) (Weimar)).

[3] The case hangs on whether the FCC agrees with the FAC that the Jehovah's Witnesses do not merit the privileges of such quasi-public status so long as the Church's theology requires its members to maintain a distance from public life (the Church's theology prohibits participation in elections nor permits participation of young male members in the military/civil service required of all German young men). The FAC sought to link the quasi-public status with "loyalty" to the state.

For More Information:

The decision of the FACB was issued on 6.06.1997 and published in NJW 1997 p. 2396.

See the web page of the German branch of the Jehovah's Witnesses: www.jehovaszeugen.de