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EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

GRAND CHAMBER

**CASE OF LAUTSI AND OTHERS v. ITALY**

*(Application no. 30814/06)*

JUDGMENT

STRASBOURG

18 March 2011

*This judgment is final but may be subject to editorial revision.*

**In the case of Lautsi and Others v. Italy,**

The European Court of Human Rights, sitting as a Grand Chamber composed of:

Jean-Paul Costa, *President*,

Christos Rozakis,

Nicolas Bratza,

Peer Lorenzen,

Josep Casadevall,

Giovanni Bonello,

Nina Vajić,

Rait Maruste,

Anatoly Kovler,

Sverre Erik Jebens,

Päivi Hirvelä,

Giorgio Malinverni,

George Nicolaou,

Ann Power,

Zdravka Kalaydjieva,

Mihai Poalelungi,

Guido Raimondi, *judges*,

and Erik Fribergh, *Registrar*.

Having deliberated in private on 30 June 2010 and on 16 February 2011,

Delivers the following judgment, which was adopted on the last-mentioned date:

## PROCEDURE

1. The case originated in an application (no. 30814/06) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Italian national, Ms Soile Lautsi ("the first applicant") on 27 July 2006. In her application she stated that she was acting in her own name and on behalf of her children Dataico and Sami Albertin, then minors. The latter, who have subsequently come of age, confirmed that they wished to remain applicants ("the second and third applicants").

2. The applicants were represented by Mr N. Paoletti, a lawyer practising in Rome. The Italian Government ("the Government") were represented by their Agent, Ms E. Spatafora, and their deputy co-Agents, Mr N. Lettieri and Ms P. Accardo.

3. The application was allocated to the Court's Second Section (Rule 52 § 1 of the Rules of Court). On 1 July 2008 a Chamber of that Section, composed of the following judges: Françoise Tulkens, Antonella Mularoni,

Vladimiro Zagrebelsky, Danutė Jočienė, Dragoljub Popović, András Sajó and Işıl Karakaş, decided to give notice of the application to the Government; applying the provisions of Article 29 § 3 of the Convention, it also decided to rule on the admissibility and merits of the application at the same time.

4. On 3 November 2009 a Chamber of the same Section, composed of the following judges: Françoise Tulkens, President, Ireneu Cabral Barreto, Vladimiro Zagrebelsky, Danutė Jočienė, Dragoljub Popović, András Sajó and Işıl Karakaş, declared the application admissible and held unanimously that there had been a violation of Article 2 of Protocol No. 1, taken together with Article 9 of the Convention, and that it was not necessary to examine the complaint under Article 14 of the Convention.

5. On 28 January 2010 the Government asked for the case to be referred to the Grand Chamber by virtue of Article 43 of the Convention and Rule 73. On 1 March 2010 a panel of the Grand Chamber granted that request.

6. The composition of the Grand Chamber was determined according to the provisions of Article 26 §§ 4 and 5 of the Convention and Rule 24.

7. The applicants and the Government each filed further written observations on the merits.

8. Leave to intervene in the written procedure (Article 36 § 2 of the Convention and Rule 44 § 2) was given to thirty-three members of the European Parliament acting collectively, the non-governmental organisation Greek Helsinki Monitor, which had previously intervened before the Chamber, the non-governmental organisation *Associazione nazionale del libero Pensiero*, the non-governmental organisation European Centre for Law and Justice, the non-governmental organisation Eurojuris, the non-governmental organisations International Committee of Jurists, Interights and Human Rights Watch, acting collectively, the non-governmental organisations *Zentralkomitee der deutschen Katholiken*, *Semaines sociales de France* and *Associazioni cristiane lavoratori italiani*, acting collectively, and the Governments of Armenia, Bulgaria, Cyprus, the Russian Federation, Greece, Lithuania, Malta, Monaco, Romania and the Republic of San Marino.

The Governments of Armenia, Bulgaria, Cyprus, the Russian Federation, Greece, Lithuania, Malta, and the Republic of San Marino were also given leave to intervene collectively in the oral procedure.

9. A hearing took place in public in the Human Rights Building, Strasbourg, on 30 June 2010 (Rule 59 § 3).

There appeared before the Court:

(a) *for the respondent Government*

Mr Nicola LETTIERI,  
Mr Giuseppe ALBENZIO,

*co-Agent,  
Adviser;*

(b) *for the applicants*

Mr Nicolò PAOLETTI, *Counsel,*  
Ms Natalia PAOLETTI,  
Ms Claudia SARTORI, *Advisers;*

(c) *for the Governments of Armenia, Bulgaria, Cyprus, the Russian Federation, Greece, Lithuania, Malta, and the Republic of San Marino, third-party interveners:*

Mr Joseph WEILER, Professor of Law, New York University, *Counsel,*  
Mr Stepan KARTASHYAN, Deputy Permanent Representative  
of Armenia to the Council of Europe,  
Mr Andrey TEHOV, Ambassador, Permanent Representative  
of Bulgaria to the Council of Europe,  
Mr Yannis MICHILIDES, Deputy Permanent Representative of Cyprus  
to the Council of Europe,  
Ms Vasileia PELEKOU, Deputy Permanent Representative of  
Greece to the Council of Europe,  
Mr Darius ŠIMAITIS, Deputy Permanent Representative of  
Lithuania to the Council of Europe,  
Mr Joseph LICARI, Ambassador, Permanent Representative  
of Malta to the Council of Europe,  
Mr Georgy MATYUSHKIN, Government Agent of the  
Russian Federation,  
Mr Guido BELLATTI CECCOLI, co-Agent of the Government  
of the Republic of San Marino, *Advisers.*

The Court heard addresses by Mr Nicolò Paoletti, Ms Natalia Paoletti, Mr Lettieri, Mr Albenzio and Mr Weiler.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

10. The first applicant and her two sons, Dataico and Sami Albertin, also applicants, were born in 1957, 1988 and 1990 respectively. They are resident in Italy. In the school year 2001-2002 Dataico and Sami attended the Istituto comprensivo statale Vittorino da Feltre, a State school in Abano Terme. A crucifix was fixed to the wall in each of the school's classrooms.

11. On 22 April 2002, during a meeting of the school's governors, the first applicant's husband raised the question of the presence of religious

symbols in the classrooms, particularly mentioning crucifixes, and asked whether they ought to be removed. On 27 May 2002, by ten votes to two with one abstention, the school's governors decided to keep religious symbols in classrooms.

12. On 23 July 2002 the first applicant contested that decision in the Veneto Administrative Court, complaining of an infringement of the principle of secularism, relying in that connection on Articles 3 (principle of equality) and 19 (religious freedom) of the Italian Constitution and Article 9 of the Convention, and on the principle of the impartiality of public administrative authorities (Article 97 of the Constitution).

13. On 3 October 2002 the Minister of Education, Universities and Research adopted Directive no. 2666, instructing the competent services of his Ministry to take the necessary measures to see to it that school governors ensured the presence of crucifixes in classrooms (see paragraph 24 below).

On 30 October 2003 the Minister joined the proceedings brought by the first applicant. He argued that her application was ill-founded since the presence of crucifixes in the classrooms of publicly run schools was based on Article 118 of royal decree no. 965 of 30 April 1924 (internal regulations of middle schools) and Article 119 of royal decree no. 1297 of 26 April 1928 (approval of the general regulations governing primary education; see paragraph 19 below).

14. By a decision of 14 January 2004 the Administrative Court referred to the Constitutional Court the question of the constitutionality, with regard to the principle of the secular character of the State and Articles 2, 3, 7, 8, 19 and 20 of the Constitution, of Articles 159 and 190 of legislative decree no. 297 of 16 April 1994 (approving the single text bringing together the legislative provisions in force regarding education and schools), in their "specifications" resulting from Articles 118 and 119 of the above-mentioned royal decrees, and of Article 676 of the same legislative decree.

Articles 159 and 190 make municipalities responsible for purchasing and supplying the furniture of primary and middle schools. Article 119 of the 1928 decree specifies that each classroom must have a crucifix and Article 118 of the 1924 decree that each classroom must have a portrait of the king and a crucifix. Article 676 of legislative decree no. 297 stipulates that provisions not included in the single text remain in force, "with the exception of provisions contrary to or incompatible with the single text, which are repealed".

By a decision of 15 December 2004 (no. 389), the Constitutional Court declared the question as to constitutionality manifestly inadmissible, on the ground that it was in reality directed towards texts which, not having the status of law, but only that of regulations (the above-mentioned Articles 118 and 119), could not form the subject of a review of constitutionality.

15. On 17 March 2005 the Administrative Court dismissed the application. After ruling that Article 118 of the royal decree of



30 April 1924 and Article 119 of the royal decree of 26 April 1928 were still in force and emphasising that “the principle of the secular nature of the State [was] now part of the legal heritage of Europe and the western democracies”, it held that the presence of crucifixes in State-school classrooms, regard being had to the meaning it should be understood to convey, did not offend against that principle. It took the view, in particular, that although the crucifix was undeniably a religious symbol, it was a symbol of Christianity in general rather than of Catholicism alone, so that it served as a point of reference for other creeds. It went on to say that the crucifix was a historical and cultural symbol, possessing on that account an “identity-linked value” for the Italian people, in that it “represent[ed] in a way the historical and cultural development characteristic of [Italy] and in general of the whole of Europe, and [was] a good synthesis of that development”. The Administrative Court further held that the crucifix should also be considered a symbol of a value system underpinning the Italian Constitution. It gave the following reasons:

“... 11.1. At this stage, the Court must observe, although it is aware that it is setting out along a rough and in places slippery path, that Christianity, and its older brother Judaism – at least since Moses and certainly in the Talmudic interpretation – have placed tolerance towards others and protection of human dignity at the centre of their faith.

Singularly, Christianity – for example through the well-known and often misunderstood “Render unto Caesar the things which are Caesar’s, and unto ...” – through its strong emphasis placed on love for one’s neighbour, and even more through the explicit predominance given to charity over faith itself, contains in substance those ideas of tolerance, equality and liberty which form the basis of the modern secular State, and of the Italian State in particular.

11.2 Looking beyond appearances makes it possible to discern a thread linking the Christian revolution of two thousand years ago to the affirmation in Europe of the right to liberty of the person and to the key elements in the Enlightenment (even though that movement, historically speaking, strongly opposed religion), namely the liberty and freedom of every person, the declaration of the rights of man, and ultimately the modern secular State. All the historic phenomena mentioned are based to a significant extent – though certainly not exclusively – on the Christian conception of the world. It has been observed – judiciously – that the rallying call “liberty, equality, fraternity” can easily be endorsed by a Christian, albeit with a clear emphasis on the third word.

In conclusion, it does not seem to be going too far to assert that, through the various twists and turns of European history, the secular nature of the modern State has been achieved at a high price, and was prompted in part, though of course not exclusively so, by a more or less conscious reference to the founding values of Christianity. That explains why in Europe and in Italy many jurists belonging to the Christian faith have featured among the strongest supporters of the secular State. ...

11.5 The link between Christianity and liberty implies a logical historical coherence which is not immediately obvious – like a river in a karst landscape which has only

recently been explored, precisely because for most of its course it flows underground – partly because in the constantly changing relations between the States and Churches of Europe it is much easier to see the numerous attempts by the Churches to meddle in matters of State, and vice versa, just like the frequent occasions on which Christian ideals have been abandoned, though officially proclaimed, in the quest for power, or on which governments and religious authorities have clashed, sometimes violently.

11.6 Moreover, with the benefit of hindsight, it is easy to identify in the constant central core of Christian faith, despite the inquisition, despite anti-Semitism and despite the crusades, the principles of human dignity, tolerance and freedom, including religious freedom, and therefore, in the last analysis, the foundations of the secular State.

11.7 By studying history carefully, from a suitable distance, not from up close, we can clearly perceive an affinity between (but not the identity of) the “hard core” of Christianity, which, placing charity above everything else, including faith, emphasises the acceptance of difference, and the “hard core” of the republican Constitution, which, in a spirit of solidarity, attaches value to the freedom of all, and therefore constitutes the legal guarantee of respect for others. The harmony remains, even though around those cores – both centred on human dignity – there have been numerous accretions of extraneous elements with the passage of time, some of them so thick as to obscure the core, particularly the core of Christianity. ...

11.9 It can therefore be contended that in the present-day social reality the crucifix should be regarded not only as a symbol of a historical and cultural development, and therefore of the identity of our people, but also as a symbol of a value system: liberty, equality, human dignity and religious toleration, and accordingly also of the secular nature of the State – principles which underpin our Constitution.

In other words, the constitutional principles of freedom have many roots, which undeniably include Christianity, in its very essence. It would therefore be something of a paradox to exclude a Christian sign from a public institution in the name of secularism, one of whose distant sources is precisely the Christian religion.

12.1 This court is admittedly not unaware of the fact that, in the past, other values have been attributed to the symbol of the crucifix, such as, at the time of the Albertine Statute, the sign of Catholicism understood as the State religion, and therefore used to Christianise and consolidate power and authority.

The court is well aware, moreover, that it is still possible today to give various interpretations of the sign of the cross, and above all a strictly religious meaning referring to Christianity in general and Catholicism in particular. It is also aware that some pupils attending State schools might freely and legitimately attribute to the cross values which are different again, such as the sign of an unacceptable preference for one religion in relation to others, or an infringement of individual freedom and accordingly of the secular nature of the State, or at the extreme limit a reference to temporal political control over a State religion, or the inquisition, or even a free catechism voucher tacitly distributed even to non-believers in an inappropriate place, or subliminal propaganda in favour of Christian creeds. Although all those points of view are respectable, they are ultimately irrelevant in the present case. ...

12.6 It must be emphasised that the symbol of the crucifix, thus understood, now possesses, through its references to the values of tolerance, a particular scope in