

Certified transcript



**Administrative Court Cologne
decision**

14 L 1660/19

In the administrative procedure

of the German-Palestinian Society e.V., represented by the members of the
Executive Board

Applicant,

Court of attorney:

Lawyer Ahmed Abed, Schönstedtstraße 7, -12043 Berlin,
Gz.: A7522/19,

against

The Federal City of Bonn, represented by the Lord Mayor, Legal Office, Thomas-
Mann-Straße 2-4, 53111 Bonn,

Defendant,

for participation in the cultural and encounter festival "Vielfalt!" here: Application for
express legal protection

the 14th Chamber of the Administrative Court of Cologne
on 18.09.2019

by

the presiding judge at the Administrative Court of
the Judge at the Administrative Court
the Judge at the Finance Court

Maurer,
Wagner and
Dr. Engler

decided:

1. The motion is denied.
Orders the applicant to pay the costs.
2. The value of the object in dispute is fixed at 5000,00 €.

reasons

The admissible analogous request,

to oblige the respondent, by way of an interim injunction, to take the applicant to the "Vielfalt!" event with a stand. Bonn Culture and Encounter Festival on 29.9.2019,
alternatively
order the defendant to make a new decision on the applicant's application for admission in accordance with the legal opinion of the Court, setting aside the decision of the defendant of 29 May 2019,

is not justified.

Pursuant to § 123 (1) sentence 2 of the Administrative Court Rules (VwGO), the court may, upon request, issue an interim injunction to settle a provisional situation with regard to a disputed legal relationship if this settlement, especially in the case of permanent legal relationships, appears necessary to avert material disadvantages or to prevent imminent violence or for other reasons. Pursuant to Section 123 (3) VwGO in conjunction with Section 123 (3) VwGO in conjunction with Section 123 (3) VwGO. § 920 (2) of the Code of Civil Procedure (ZPO) to substantiate the factual prerequisites of a right (right to an injunction) and the particular urgency (ground for an injunction). The decision on the merits of the case cannot, in principle, be overruled either in law or in fact.

According to these provisions, the prerequisites for the granting of the requested interim injunction anticipating the main action are not fulfilled. There's no claim to an order.

The applicant is not entitled to the asserted claim according to § 8 para. 2, para. 4 of the North Rhine-Westphalian municipal code (GO NRW).

It is true that the planned cultural and encounter festival on the market and Münsterplatz in Bonn, which was organised by the respondent, is a public institution which any entitled person may "use" within the scope of the dedication.

See the decisions of the Chamber in the parallel proceedings 14 L 1747/19 of today and 14 L 1765/19 of 12.9.2019.

The content of the dedication is decisive for the entitlement to use this public facility, both with regard to the manner of use and the group of beneficiaries.

The scope of the dedication in this case is expressly determined by the decision of the Council of the Defendant of 28.3.2019. Insofar as it is of interest, the "new concept" adopted here was compared with previous years and deviated from the original proposal of the administration (as at 18.1.2019, Bl. 50 et seq. of the Administrative Act -VV-) now stipulates in No. 2 sentence 2 on the "exhibitor side" that "associations, organisations and institutions with an intercultural and international orientation with their headquarters in Bonn or in the Rhein-Sieg district" should be invited to participate (Bl. 48 in connection with Bl. 58 et seq.)

The applicant is not one of the beneficiary users according to this relevant dedication purpose because he is neither domiciled in Bonn nor in the Rhein-Sieg district.

Although at first he had given an address in the Rhein-Sieg district, namely in Bad Honnef, he did not have a single address. According to the register of associations of the Cologne Local Court (VR 9394), however, its (legal) seat is in Cologne. There is also no other recognisable local connecting factor which - irrespective of the question of whether this would be relevant - is located in Bonn or in the Rhein-Sieg district and which could be considered as a "seat" in the sense of the dedication resolution. According to the register of associations, Mr. M (,1. President"), who has been appointed to the executive board according to the register of associations, has his residence in Bad Iburg; the two members of the executive board named in the rubrum have their residences in Duisburg and Berlin.

Insofar as the applicant in a statement of 5 September 2019 states in detail that numerous associations, organisations and "state representations" do not have their "seat" (against the designation on the invitation list) in Bonn, this is irrelevant even if it applies. This also with regard to the question as to the comprehensibility of the respondent's statements in her pleading of 9 September 2019 under letter c. It is also irrelevant whether one of the groups named by the applicant in the broadest sense on the invitation list actually takes part in the cultural festival.

As explained above, the purpose of the dedication was determined by an express decision of the Council of the respondent competent under Sections 40 et seq. of

the NRW Rules of Procedure. The Council Decision does not authorise the administration, committees or other working groups to limit or extend this purpose. Nor is there any other evidence to suggest or suggest that the Council has transferred such powers to other bodies. Even if it were assumed that the administration actually departed practically and to a relevant extent from the relevant Council decision, this would not affect the scope of the explicit dedication of the public body. This would certainly not have given the applicant a claim under Article 3 of the Basic Law to admission outside the purpose of the dedication, since there is no "equal treatment in injustice".

Any kind of self-binding on the part of the respondent due to the alleged admission of the applicant in some of the previous years is ruled out because the respondent has expressly, generally and obviously lawfully changed the purpose of the dedication with its new concept for 2019 and limited the circle of potential "exhibitors".

Other fundamental and human rights cited by the applicant are obviously not affected by the opponent's refusal to admit the applicant with its own stand at the cultural festival organised by her.

It follows from all the foregoing that the applicant is also not entitled to the right to a new decision, which is invoked in the alternative.

The decision on costs follows from Article 154(1) of the VwGO.

The value in dispute decision is based on Section 53 (2) No. 1, Section 52 (2) of the Court Costs Act. In accordance with section 1.5 of the Dispute Value Catalogue for Administrative Jurisdiction (as of July 2013), the Chamber has refrained from halving the amount in dispute to half the (catch-all) amount in dispute of a possible main action, because the petitioner requests an anticipation of the main action.

legal remedy instruction

An appeal may be lodged in writing with the Administrative Court of Cologne, Appellhofplatz, 50667 Köln, against No. 1 of this resolution within two weeks of its announcement.

Instead of filing the complaint in writing, the complaint may also be filed as an electronic document in accordance with § 55a of the Administrative Court Ordinance (VwGO) and the Ordinance on the Technical Framework Conditions for Electronic Legal Transactions (Verordnung über die technischen

Rahmenbedingungen des elektronischen Rechtsverkehrs - VwGO) and via the special electronic public authority mailbox (Elektronischer-Rechtsverkehr-Verordnung - ERW).

The appeal period shall also be observed if the appeal is received by the Higher Administrative Court for the State of North Rhine-Westphalia, Aegidiikirchplatz 5, 48143 Münster, within the period in writing or as an electronic document in accordance with § 55a VwGO and ERVV.

The appeal shall state the grounds of appeal within one month of notification of the decision. The grounds must be submitted to the Higher Administrative Court in writing or as an electronic document in accordance with § 55a VwGO and ERVV if they have not already been submitted with the complaint. It must contain a specific request, state the reasons for which the decision must be altered or annulled and deal with the contested decision.

The parties must be represented by an authorised representative when filing and substantiating the appeal. Attorneys at law or legal teachers at a state or state-recognised university of a member state of the European Union, another signatory state of the Agreement on the European Economic Area or Switzerland who are qualified to hold the office of judge are admitted as attorneys-at-law to public law authorities and legal entities as well as to their own employees or employees of other public law authorities or legal entities who are qualified to hold the office of judge. In addition, the persons designated in § 67 (4) of the Administrative Court Ordinance as equivalent to them by law shall be admitted.

An appeal against paragraph 2 of this Decision may be lodged within six months of the date on which the decision on the merits of the case becomes final or the proceedings are otherwise disposed of. If the amount in dispute was fixed later than one month before the expiry of that period, it may still be claimed within one month of service or informal notification of the fixing decision.

The complaint must be lodged in writing, with the Administrative Court Cologne, Appellhofplatz, 50667 Cologne, as a protocol of the clerk of the office or as an electronic document in accordance with § 55a VwGO and ERW.

The appeal shall be admissible only if the value of the subject-matter of the appeal exceeds EUR 200.

The notice of appeal should be filed in duplicate. Copies are not required in the case of submission of an electronic document.

bricklayers

wainwright

Dr. Engler



Beglaubigt
Zaß-Herbertz
Justizsekretär als Urkundsbeamter
der Geschäftsstelle