



Facsimile: 49 30 18 580 - 95 25

Frau Sabine Leutheusser-Schnarrenberger
Bundesministerin der Justiz
Mohrenstraße 37
10117 Berlin
Germany.

**RE: Intimidation of Attorney and Plaintiff who
Brought Discrimination Lawsuit on Nov. 26, 2012**

Dear Madam Secretary of Justice Leutheusser-Schnarrenberger:

The International Center for Advocates Against Discrimination (ICAAD) is deeply concerned about the recent acts by the Bavarian judge, prosecutor, and police to seek, issue, and carry out a warrant to search the offices and homes of an attorney and his client who recently filed an employment discrimination lawsuit.

ICAAD is a nonprofit organization founded for the purpose of eradicating structural discrimination globally, and to promote human rights norms consistent with public international law. Recently, we read the disturbing news of the use of prosecutorial intimidation to discourage a plaintiff from bringing suit by making accusations that would amount to extortion for merely filing a lawsuit.

Such actions would only seek to discourage plaintiffs from bringing discrimination suits. This outcome would undermine the rule of law, create significant barriers to accessing mechanisms for redress, and ultimately protects corporations who are unwilling to be socially responsible. The ramifications of such action are far reaching. Any contention with or dispute for why the plaintiff is bringing suit should be resolved in a court of law and not through force and intimidation.

From our perspective as an international organization based in New York, the German Constitutional Court stands as a pillar of protecting human rights and the rights of those most vulnerable. It is often a Court that is looked at with esteem not only by other European States but also the European Court of Human Rights. Nonetheless, the views of the Constitutional Court are not often echoed by others in various parts of Germany. Similar to the U.S., Germany is not a homogenous nation with homogenous views; however, there is a disturbing societal trend that seeks to overlook serious issues of discrimination that are deeply embedded, as our colleagues from the Council on Global Anti-Discrimination (CoGAD) have noted in their recent release, attached hereto as Appendix "A."

Our own research using international mechanisms, including the Universal Periodic Review (UPR) reveals structural discrimination problems against migrants, women, and religious groups who manifest their identity. Our concern here is not only about one "seemingly" isolated matter, but the developing pattern and practice of discrimination cases not being taken seriously by courts and monetary judgments that do not comprehend the true severity and harm that results from facing discrimination, especially employment discrimination that potentially strips one of their livelihood.

Ultimately, fair and impartial tribunals should be the arbiter of disputes between employees and their employers. Instead, prosecutors and police have been made into weapons that are wielded by more powerful forces who seek to circumvent the rule of law. We have a vested interest in ensuring that individuals have a mechanism to bring discrimination claims both domestically and internationally, and we will be intently watching for an amicable resolution to what seems to be an egregious violation of one's most fundamental rights.

Sincerely,

A handwritten signature in blue ink, appearing to read 'H. Singh', written in a cursive style.

Hansdeep Singh, Director of Legal Programs

A handwritten signature in black ink, appearing to read 'J. Singh', written in a cursive style.

Jaspreet Singh, Director of Advocacy & Policy



December 7, 2012

PRESS RELEASE:

Bavarian officials try to intimidate victim of discrimination and his lawyer

On the morning of November 26, 2012 squads of police officers forced entry into three different locations in Bavaria at the same time. They searched a law office and took all the computers and many physical files. At the same time they searched the lawyer's home with his male flat mate being held at bay by a female public prosecutor whilst in the bathroom.

The client was taken into custody during the search of his home. Police tried to subject him to degrading treatment: For example he was ordered to completely undress, give a DNA sample and fingerprints. Only when he strongly objected, police abstained from enforcing these orders.

All this happened on the day after the lawyer had left the country on vacation to Asia and without giving any prior notice about any proceedings against him.

What was the "reasoning" for these grave attacks on dignity and privacy of several innocent individuals? The officials claimed, the lawyer and his client were trying to extort money from employers. The client had applied for a job as a "junior manager" without success and deemed this an act of age discrimination. The lawyer demanded remedies and received a search warrant.

The only reason officials gave for their wild accusations was that one court in Germany had previously uttered a different legal opinion than the lawyer in this case. There is not the slightest legal basis for any such accusations against both lawyer and client. Nothing can repair the harm to dignity and loss of reputation caused by these proceedings. The lawyer will not be able to work because his files and computers have been seized for unlimited time. This means a de facto professional ban for him. This is the first time that such an incident has occurred in Germany.

The underlying problem is the ongoing fight of a large part of German society (employers associations, right wing parties and their henchmen, especially in corporate law firms) against efficient antidiscrimination laws. Most judges and legal experts see antidiscrimination laws as an attack on the German legal system, enforced on them by the EU and based on American ideas. So judges are extremely reluctant to decide in favor of plaintiffs and lawyers mostly avoid these cases. The German antidiscrimination law was enacted in August 2006 and up to October 4, 2012 only 174 cases are on record. Of these only 22 were successful and only two of them in the course the last two years. The aggregate amount of damages awarded is €80,811 - in more than six years (€6,200 in the last two years). In the UK, with a population of just 75 percent of Germany's, between 60,000 to 75,000 antidiscrimination complaints are filed each year. The highest damages awarded were equivalent to more than five million euros. Both countries have to comply with the pertinent EU directives, which clearly demand efficient legal remedies against discrimination, including deterrent damages.

Lawyers in Germany are often confronted with ignorant behavior of judges in this area and their unwillingness to even read complaints or hear witnesses. Lots of lawyers representing employers regularly infringe on the personal dignity of the plaintiffs and the lawyers representing them. This is now seemingly fully state-sanctioned - at least in that part of Germany which is governed by the most conservative democratic party in Germany (CSU) since the end of WW II. This party keeps fighting vigorously against any kind of antidiscrimination law. Now the lawyers are facing intimidation and even losing their license for good - just because they fight for victims of discrimination.

This shows that the line between prosecution and persecution is becoming increasingly blurred in Germany, since never before such an attack by state officials on individuals' human dignity and professional integrity has taken place.

