

German court rules religious circumcision on boys an assault

26 June 2012

Circumcising young boys on religious grounds amounts to grievous bodily harm, a German court ruled Tuesday in a landmark decision that the Jewish community said trampled on parents' religious rights.

The regional court in Cologne, western Germany, ruled that the "fundamental right of the child to bodily integrity outweighed the fundamental rights of the parents", a judgement that is expected to set a legal precedent.

"The religious freedom of the parents and their right to educate their child would not be unacceptably compromised, if they were obliged to wait until the child could himself decide to be circumcised," the court added.

The case was brought against a doctor in Cologne who had circumcised a four-year-old Muslim boy on his parents' wishes.

A few days after the operation, his parents took him to hospital as he was bleeding heavily. Prosecutors then charged the doctor with grievous bodily harm.

The doctor was acquitted by a lower court that judged he had acted within the law as the parents had given their consent.

On appeal, the regional court also acquitted the doctor but for different reasons.

The regional court upheld the original charge of grievous bodily harm but also ruled that the doctor was innocent as there was too much confusion on the legal situation around circumcision.

The court came down firmly against parents' right to have the ritual performed on young children.

"The body of the child is irreparably and permanently changed by a circumcision," the court

said. "This change contravenes the interests of the child to decide later on his religious beliefs."

The decision caused outrage in Germany's Jewish community.

The head of the Central Committee of Jews, Dieter Graumann, said the ruling was "an unprecedented and dramatic intervention in the right of religious communities to self-determination."

The judgement was an "outrageous and insensitive act. Circumcision of newborn boys is a fixed part of the Jewish religion and has been practiced worldwide for centuries," added Graumann.

"This religious right is respected in every country in the world."

Holm Putzke, a criminal law expert at the University of Passau, told the Financial Times Deutschland that the ruling was "enormously important for doctors because for the first time they have legal certainty."

"Unlike many politicians, the court has not allowed itself to be scared off by charges of anti-Semitism or religious intolerance," added Putzke.

The World Health Organisation has estimated that nearly one in three males under 15 is circumcised. In the United States, the operation is often performed for hygiene reasons on infants.

Thousands of young boys are circumcised every year in Germany, especially in the country's large Jewish and Muslim communities.

The court specified that circumcision was not illegal if carried out for medical reasons.

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