



Alliance Against Conformity

Bund gegen Anpassung

07.10.2008

A call for solidarity with Luigi Tosti

Italian judge Tosti sentenced to 12 months' imprisonment because he refused to conduct court proceedings under the cross - the third and final appeal trial takes place in Rome on 18 November

For nearly 5 (!) years now, the Italian judge Luigi Tosti has been steadfastly refusing to conduct proceedings or pass judgements under the cross as a concentrated symbol of the violently achieved absolute power of the Christian churches, especially the Catholic Church as the traditionally more aggressive part of organised Christianity. And for nearly 5 (!) years, he has, because of his resolute demand for the separation of church and state, a citizens' principle achieved against the Catholic Church, been overrun with numerous proceedings and directives from the Italian justice system, which are all aimed at demoralising and eventually ruining him. After his demand for the removal of the cross from the courtroom had been rejected, he has been refusing to conduct the proceedings under his jurisdiction since 9 May 2005. His suit filed against the cross in the courtroom is supported by several articles in the Italian constitution concerning neutrality of worldview, and in particular Article 21 concerning freedom of speech, Article 3 (equal treatment) and Article 8 (freedom of religious confession), and Articles 9 and 14 of the European Convention of Human Rights. His suit, which was aiming to return validity to the basic rights, guaranteed in the Italian constitution, ensuring neutrality of worldview for all citizens, has so far been met with nothing but repression from the Italian justice system: Tosti was sentenced to seven months' imprisonment and suspended from all official duties for a year for »violation of official duty« on 18 November 2005. The sentence was recently increased to 12 months (in February 2008).

As a reminder: Tosti's first suit in October 2003 against the cross in the courtroom at Camerino, a small provincial town in the Macerata Province, in which he was engaged as a civil court judge, was accompanied as ever by excuses and vague references to »directives« and basically fell on deaf ears. While conducting his own subsequent research into the matter he then really did discover a directive that prescribed the affixation of a cross in the courtroom. However, this directive was from the year 1926 (!) - in other words, from the **Mussolini era**! But this Mussolini directive is in direct contradiction to the Italian constitution, which has been in effect since 1947, which requires the separation of Church and State.

Judge Tosti informed his superiors, including the Justice Minister, about the result of his research and demanded the removal of all crucifixes from all courtrooms in Camerino, which in turn would also mean, of course, that this **Fascist** directive would finally no longer be valid, even if it was very late.

Delaying tactics instead of corrective measures - these were the only reactions he met with at first on his demand of removing the cross, although he even was ready to make a compromise. If, after all, religious symbols had to be introduced into a plan, where they have no justification, whatsoever, then symbols of other religions or philosophies should also be introduced in accordance with the

principle of equality of the International Convention of Human Rights of 1975, and therefore also the Menorah, the seven-armed Jewish candelabra, for instance, should be given a place in the courtroom, too.

Then the intimidation by the authorities was intensified: the Court President referred to the still valid **Fascist** directive and the Minister of Justice ordered an investigation into a possible initiation of a disciplinary hearing against the protesting judge.

When Judge Tosti then put up the emblem of the UAAR (Unione Atei Agnostici Razionalisti), the biggest rationalists' association in Italy, in the courtroom, it was, in marked contrast to the crucifix, immediately taken down and confiscated by the authorities.

The Italian justice authorities did not succeed in silencing Judge Tosti by abducting, demoralising or intimidating him. Even the attempt to silence him by providing him a room specially prepared for him, which would have permanently labelled him as a crazy maverick, failed: Tosti refused to be ghettoised. Instead of this he set an ultimatum: either all crosses were to be removed from courtrooms (or the Menorah or the UAAR emblem be accepted equally in them), or he would no longer hold any sessions in his capacity of judge.

Then three criminal charges were initiated against him. On 18.11.2005 the L'Aquila Court sentenced the judge Luigi Tosti, on account of his refusal to lead court proceedings in the presence of a crucifix, to 7 months' imprisonment and a year's suspension from all public offices. On the demand of the State Prosecutor, the magistrate also deprived him of all his functions as a judge, as a consequence of which he has received no salary since February 2006 and no longer has any means to support himself. His very livelihood is threatened. The responsible magistrate has, in the meantime, borne Tosti out in the crucifix question, but this has had no practical consequences: he has neither been restored to office, nor is he receiving his judge's salary. It is clear that in their endeavours to break the victim, the authorities are focussing their attention on the destruction of his livelihood.

However, the authorities are by no means putting all their eggs in one basket as far as keeping this violation of justice going is concerned. The Italian State Council paved the way for how to dismiss protests against the intrusive presence of the crucifix in future in a judgement establishing a principle. The Christian cross is, according to this judgement, also an »important symbol« for non-believers because it has »different meanings in different places«. Outside the Church it stands for values that are relevant to all, such as »tolerance, mutual respect or the affirmation of personal rights« whatever that is supposed to mean. So it is a »symbol that is suited to expressing the (...) foundation of bourgeois values that illuminate the laicité in today's state order«.

Anything goes - that's all that can be said here. But whether this impertinent and very selective revaluation of the symbolic values of the cross gets through or not depends as ever on the vigilance of the people, and therefore on the preservation of historical memory. Luigi Tosti can definitely be said to be a person who has preserved this memory and therefore the defence of his person contributes to stemming this rolling avalanche of clerical mud.

Tosti's appeal against the wrong committed against him was rejected in L'Aquila in May 2007. His sentence has now been increased to 12 months. Due to a peculiarity of Italian law, he has to endure one trial after another concerning the same affair since each individual case he refused to try under the cross is being tried individually.

This means that not only is it likely that on account of the pending trials - the authorities have enough time and taxpayers' money, after all - his sentence will be increased still further, but it is also likely that the Court of Cassation presiding in the third and final instance will reaffirm the verdict of the first.

The appeal against the initial sentencing to seven months' imprisonment and one year's suspension from all public offices is now imminent: it will take place at the Court of Cassation in Rome on 18 November 2008.

Only support from a wide international public can put so much pressure on the Italian government and justice system that they will see themselves forced to return to adhering to the constitution, which is committed to laicité, rather than directives from Mussolini.

In this context we are glad that on the occasion of the International Rationalists' Congress of the Fédération Nationale de la Libre Pensée in Roanne on 9th July 2008 we were able to collect around 150 protest signatures that were then sent to the Italian Court of Cassation.

We would therefore ask our readers to send polite protest letters to the Court of Cassation in Rome, asking the Italian justice system to overturn the unconstitutional verdict passed on Judge Tosti, returning him his constitutionally guaranteed rights and finally ceasing to act on the basis of a directive from **Mussolini**.

Please send your polite protest letters to:

Corte di Cassazione
Sesta Sezione Penale
Palazzo di Giustizia
Piazza Cavour
00193 Roma (RM)
Italy

Please include the file number:

Oggetto: R.G. n.2007/03482400

And please always send a copy to us!