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European Languages

زبانهای اروپایی

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02.11.2019

Berlin Tax Office withdraws charitable status from Nazi victims' organisation

The Berlin Tax Office has withdrawn the charitable status of one of the largest and most long-established anti-fascist associations in Germany. The action removes certain tax concessions from the nonpartisan and nondenominational Vereinigung der Verfolgten des Naziregimes-Bund der Antifaschistinnen und Antifaschisten (Association of Those Persecuted by the Nazi Regime—League of Anti-fascists). The VVN-BdA was founded in 1947.

The decision is tantamount to a ban. Charitable status allows donors to claim their financial contributions up to a certain amount for tax purposes and thus get back part of the donated money. Charitable status is also a basic prerequisite for accessing funding from foundations, other non-profit associations and state programmes.

Associations with anti-fascist, social or environmental protection goals are often dependent on donations from the population, since they naturally receive little support from the state or large enterprises. Conversely, large companies can deduct lobbying costs from their taxes.

To what extent the work of the VVN can continue cannot be foreseen, the VVN-BdA federal managing director Thomas Willms told the *Frankfurter Rundschau*. “Those who will be pleased now are the AfD,” he said, referring to the far-right Alternative for Germany.

According to Willms, the VVN-BdA will appeal the decision of the Berlin Tax Office. The withdrawal of charitable status means that the association must now pay five-figure

tax bills for 2016 and 2017. Willms fears that VAT (sales tax) claims will be added “and the assessments for 2018/2019 are still pending.”

The VVN was founded in 1947, shortly after the end of the Second World War, by resistance fighters and survivors of the Nazi concentration camps and prisons. Well-known leading members include Kurt Goldstein, Esther Bejarano and the first president of the Central Council of Jews, Heinz Galinski. The writers Eugen Kogon and Victor Klemperer were also VVN members for a time.

Since then, the organisation has mainly undertaken educational and informational work against fascist, militaristic and new-right tendencies, as well as against the presence of old Nazis in state and social offices. For this reason, it was persecuted in the former West Germany from the beginning and faced many attempts to have it banned.

In 1951, the VVN council was banned by the Adenauer government. The implementation of the ban, however, was partially blocked in the administrative courts. In 1959, the federal government made another attempt to ban the VVN. However, a trial in the Federal Administrative Court was broken off after two days in 1962 because the responsible judges and prosecutors had a Nazi past.

The resistance fighter August Baumgarte (a survivor of the Mauthausen concentration camp), who was persecuted by the Nazis, presented documents in the trial which showed that the presiding judge and president of the Federal Administrative Court, Fritz Werner, had joined the NSDAP (Nazi Party) and the SA (Storm Troopers) even before 1933, and had later been appointed as a higher SA leader. The government lawyer, Hermann Reuß, had also been a former member of the NSDAP and a judge under the Nazis.

Nevertheless, the Office for the Protection of the Constitution (Verfassungsschutz), as the secret service is called, continued to treat the VVN as an “object of surveillance” and denounce and spy on it as “left-wing extremist,” which for its members often meant a de facto ban on working in the public sector. In recent years, the VVN was mentioned only in the report of the Bavarian state secret service branch, which states that the VVN-BdA is the “largest nationwide left-wing extremist-influenced organisation in the area of anti-fascism,” and pursues a “communist-oriented anti-fascism.”

This report was cited by the Oberhausen South Tax Office to justify withdrawal of charitable status for the VVN-BdA regional organisation in North-Rhine/Westphalia. It was based on section 51 paragraph 3 of the tax code, according to which bodies listed as “extremist organisations” in the report of the Federal Office for the Protection of the

Constitution of the federal government or of a federal state do not enjoy tax privileges as charitable organisations. Unlike the Berlin Tax Office, however, the Oberhausen office accepted the VVN's reasoning and revised its decision.

The Berlin Tax Office, however, decided that the VVN-BdA federal association could not refute the accusation of left-wing extremist influence, thus reversing the burden of proof. The VVN-BdA must prove its innocence to a domestic intelligence service whose decisions are completely opaque, and which has been riddled with old Nazis since its foundation.

“We must fully prove that the allegations made are false. This runs according to the motto: ‘Prove that you are not a witch,’” commented Federal Managing Director Willms.

The VVN-BdA is not listed in the report of the Berlin state branch of the secret service, and the Berlin Senate, an alliance of the Social Democratic Party (SPD), the Greens and the Left Party, has refused to express any official response. But the responsibility for the tax office that made the decision lies with the so-called “red-red-green” Senate. SPD Senator Matthias Kollatz is in charge of the financial administration in Berlin.

Jewish organisations have reacted with horror. Sigmound Königsberg, the representative of the Jewish Community Against Anti-Semitism, condemned the decision with the remark, “What kind of signal is this? Showing commitment against Nazis is sanctioned. That cannot be allowed.” Königsberg warned that it could affect the VVN-BdA today and another association tomorrow.

The International Auschwitz Committee has also sharply criticized the denial of charitable status. Against the background of daily right-wing extremist threats, Executive Vice President Christoph Heubner described the decision as a scandal in a statement on Saturday.

Auschwitz survivor and honorary VVN-BdA chairman Esther Bejarano wrote in an open letter to Federal Finance Minister Olaf Scholz (SPD), “The work of Antifa, the work of anti-fascist associations is—still—bitterly necessary today. For us survivors it is unbearable when Nazi slogans are again shouted today, when Jewish people and synagogues are attacked, when people are chased and threatened through the streets, when death lists are circulating and extreme right-wingers do not even shy away from attacks against representatives of the state.”

Denouncing Scholz, Bejarano wrote: “The house is on fire—and you lock out the fire brigade! You want to make the work of the largest and oldest anti-fascist association in the country impossible? This devaluation of our work is a serious affront for all of us... We survivors of the Shoah are the uncomfortable admonishers, but we have not lost our hope for a better and peaceful world. For this, we and the many who think like us need help! We need organisations to support and coordinate this work.”

She had never imagined, Bejarano continued, “that the charitable nature of our work could be doubted or denied!” She continued: “That I have to experience it today! Have those already won who want to falsify the history of our country, who want to rewrite and overwrite it? Who speak of memorials as ‘memorials of shame’ and call the Nazi state and its murder machine ‘bird shit in German history’?” The latter was a direct reference to a leader of the far-right Alternative for Germany.

She asked, “What can be more charitable than conducting this struggle? Does a tax authority in this country really decide on the existence of an association of survivors of Nazi crimes?”

Apparently so. Olaf Scholz has plans that go even further.

As the newsweekly *Der Spiegel* reported, the federal minister of finance and favourite to win the leadership of the SPD wants to place politically active associations on a leash, with the help of the tax offices. Tax concessions for charitable associations would be abolished if the organisations interfered too much in day-to-day politics. Concretely, this would mean that an association could express itself politically within the context of its objectives but could not intervene in the wider political debate. Attac and Campact have already been deprived of charitable status on this basis.

The action against Attac was approved by the Federal Fiscal Court (BFH). In a ruling in January of this year, the court stated: “Anyone who pursues political ends by exerting influence on political decision-making and shaping public opinion does not fulfil a charitable purpose.”

The court added that “influencing political decision-making” is incompatible with receiving tax benefits. This applied even to “minor general political activity by a student association.”

Demands directed against welfare and labour reforms, such as “Away with Agenda 2010 and Hartz IV,” “No dismantling of social benefits,” “Against forced labour,” “For the introduction of a statutory minimum wage,” “No EU constitution” and “Abolition of the

WTO” are, according to the BFH judgement, “incompatible with tax relief according to section 52 AO (of the tax code).”

While the campaign against fascism, social cuts and neoliberalism is not “charitable,” according to German tax offices and courts, the situation as far as right-wing organisations is concerned is quite different. For many years, notoriously far-right federations have been considered charitable and enjoyed tax concessions.

One example is the “Landsmannschaft Schlesien,” which, according to its own account, “politically, legally and culturally represents the interests of Silesia and the Silesians” and demands “the right to self-determination and the right to one’s homeland, including the right to property”—in other words, revanchist goals that can be achieved only through war against Poland. In recent years, the organisation’s youth group has repeatedly made a name for itself through its links with the neo-Nazi German National Party (NPD) and other right-wing extremist organisations.

Another organisation whose charitable status is recognized by the state is the “Uniter” association. This is part of a right-wing radical network of soldiers and policemen suspected of being involved in the construction of a right-wing shadow army, which the association denies. According to research in the *Tagesspiegel*, Uniter not only explicitly advertises the tax deductibility of donations, it is also awarded regular “donor orders.”

Conversely, democratic, social and anti-fascist organisations are under constant observation by the domestic intelligence services and in danger of losing existentially necessary funds at the nod of the secret service.

According to research by the blog *FragdenStaat*, from 2015 to 2018, the Ministry of Family Affairs forwarded the data of a total of 51 projects to the secret service, including six project sponsors in the field of anti-Semitism, eight project sponsors in the field of racism and six project sponsors in the field of living together in the immigration society. The secret service then informed the ministry whether or not the promoters were eligible. The ministry keeps secret the criteria and data used in the checks.

30 November 2019