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Comment on a decision

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A decision that sets a precedent?

Parliamentary reservation for crosses – Note on VGH Munich, judgment of 8 July 2025, ref. 7 BV 21.336

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Zusammenfassung:

Der Artikel setzt sich kritisch mit dem Urteil des Bayerischen Verwaltungsgerichtshofs vom 8. Juli 2025 auseinander, das die Weigerung der Schule zur Entfernung eines Kreuzes im Eingangsbereich eines staatlichen Gymnasiums als rechtswidrig bewertet. Es wird hervorgehoben, dass der VGH zentrale Aspekte des Falls – insbesondere die spezifische Konstellation schulischer Grundrechtsausübung und die staatliche Neutralität – nur unzureichend berücksichtigt. Der Beitrag ordnet die Entscheidung in die bestehende verfassungsrechtliche und europarechtliche Judikatur ein und diskutiert die Verbindung zum Kruzifixierlass.

Abstract: *The article critically examines the judgement of the Bavarian Administrative Court of 8 July 2025, which ruled that the refusal to remove a cross from the entrance area of a state grammar school was unlawful. The commentary emphasises that the Administrative Court did not sufficiently consider key aspects of the case, in particular the specific constellation of the exercise of fundamental rights in schools and the neutrality of the state. The article classifies the decision within existing constitutional and European case law and discusses the relation to the “Kruzifixierlass”.*

Schlagwörter: Religionsfreiheit, Staatliches Neutralitätsgebot, Kruzifix Urteil, religiöse Symbole

Keywords: Freedom of religion, State neutrality principle, Crucifix judgment, religious symbol

Hier geht es zum Urteil - you may find the decision here:

https://www.vgh.bayern.de/mam/gerichte/bayvgh/presse/7_bv_21.336.pdf

This is an AI supported longer abstract. We therefore ask you to consider this abstract as a reading aid only.

This article critically engages with a recent decision by the Bavarian Higher Administrative Court (VGH Munich, judgment of July 8, 2025, Az. 7 BV 21.336), which declared unlawful a school administration's refusal to remove a crucifix from the main entrance area of a public secondary school. The plaintiffs, two former pupils, argued that the permanent and prominently displayed religious symbol violated their negative freedom of religion and the state's duty of religious and ideological neutrality. The court held that the compulsory nature of

school attendance, coupled with the unavoidable exposure to the cross in central communal areas, constituted a continuous and coercive confrontation with a specific religious message. Drawing on prior constitutional jurisprudence—especially the German Federal Constitutional Court’s 1995 Kruzifix decision—the VGH found that the cross’s religious meaning could not be reduced to a mere cultural or historical symbol.

The article contextualizes the judgment within ongoing legal debates on state neutrality and religious symbolism in public institutions, particularly in public education. It raises critical concerns regarding the court’s reasoning, especially its limited attention to the unique legal configuration of passive state conduct (non-removal of an existing symbol) as opposed to active state obligation (as in Bavaria’s so-called Kreuzerlass). Furthermore, the commentary challenges the blanket application of legal standards derived from classroom settings to entrance and recreational areas without adequate situational differentiation. The decision’s rejection of relevant jurisprudence by the European Court of Human Rights (ECtHR), which typically interprets crucifixes as passive symbols not inherently infringing on religious freedom, is also addressed.

The article concludes that, while the ruling outlines the principle of religious neutrality in public schools, it simultaneously reveals interpretive shortcomings. A more nuanced legal analysis—particularly of the state’s role and the spatial-symbolic context—is necessary to avoid an overly rigid understanding of neutrality. The case exemplifies the persistent tensions between individual rights, religious pluralism, and historically embedded cultural-religious symbols in public spaces.