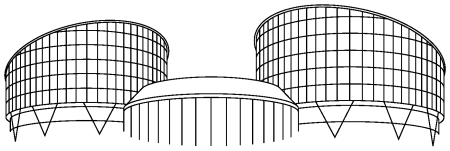

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF LANGNER v. GERMANY

(Application no. 14464/11)

JUDGMENT

STRASBOURG

17 September 2015

FINAL

01/02/2016

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Langner v. Germany,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Mark Villiger, *President,*
Angelika Nußberger,
Boštjan M. Zupančič,
Vincent A. De Gaetano,
André Potocki,
Helena Jäderblom,
Síofra O'Leary, *judges,*
and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 25 August 2015,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 14464/11) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a German national, Mr Rolf-Udo Langner ("the applicant"), on 3 March 2011.

2. The applicant, who had been granted legal aid, was represented by Mr E. Freiherr von Waldenfels, a lawyer practising in Dresden. The German Government ("the Government") were represented by their Agent, Mr H.-J. Behrens, of the Federal Ministry of Justice.

3. The applicant alleged that his dismissal from his workplace for commenting on his superior violated his right to freedom of speech.

4. On 24 September 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1955 and lives in Pirna.

6. The applicant had been employed as head of the sub-division in charge of sanctioning misuse of housing property (*Zweckentfremdung*) in the Housing Office of the Municipality of Dresden since 1993.

7. On 9 December 1998 a meeting of the staff of the Housing Office took place in the presence of the Deputy Mayor for Economy and Housing,

W., an elected official who, *inter alia,* governed the Housing Office, and of a number of staff and trade union representatives. Following a short address on the issue of the expiry of the regulation on misuse of housing property by 31 December 1998 given by W., the applicant took the floor and accused W. of having committed perversion of justice (*Rechtsbeugung*) by ordering the issue of an unlawful demolition permit for a block of flats in 1995/1996.

8. On 11 December 1998 the applicant's head of division requested the applicant to substantiate his allegations in writing.

9. On 17 December 1998 the applicant submitted several pages of written comments, in which he repeated several times (using bold characters) his allegations that W. had committed perversion of justice by ordering the issue of a demolition permit in 1995/1996 without, at the same time, imposing compensation payments for the loss of housing space caused by the demolition. According to the applicant, W. had "ruthlessly pursued politico-economic interests". He further submitted that all staff members of his sub-division considered that W. had deliberately discredited their work. Furthermore, W. had unlawfully attempted to dissolve the sub-division, thus putting at risk its staff's employment. The statement made by W. during the staff meeting had been degrading and cynical and had contained half-truths and lies. W. had not assumed any personal responsibility and did not show any concern for finding a socially acceptable solution to the problems arising from the dissolution of the sub-division.

10. By letter of 24 March 1999 the Municipality of Dresden dismissed the applicant with effect from 30 June 1999. The dismissal was primarily based on the applicant's statement during the staff meeting. According to the letter of dismissal, the applicant's accusations against W. had been unjustified. By making these accusations in front of a large number of staff members and representatives of the staff committee and of the trade union, the applicant had damaged his superior's reputation and thus irrevocably destroyed the mutual trust which was necessary for effective cooperation. It was further observed that the applicant had not availed himself of the possibility of submitting his concerns to his superior or to the Mayor. Finally, it was noted that the applicant had been reprimanded for disloyal conduct on two previous occasions.

11. On 17 July 1999 a local newspaper published a letter to the editor in which the applicant expressed the opinion that the Deputy Mayor W. lacked any competence for resolving problems relating to housing issues.

12. By judgment of 24 May 2000 the Dresden Labour Court (*Arbeitsgericht*) established that the employment contract had not been terminated by the dismissal since this could not be justified under section 1 of the Unfair Dismissal Act (*Kündigungsschutzgesetz*, see relevant domestic law, below). The Labour Court did not find it necessary to decide whether the applicant's allegations had been correct, as they were, in any event, covered by the applicant's right to freedom of expression.

13. On 8 January 2002 the Saxon Labour Court of Appeal (*Landesarbeitsgericht*) dismissed the appeal lodged by the Municipality of Dresden.

14. On 6 November 2003 the Federal Labour Court (*Bundesarbeitsgericht*), upon the Municipality's appeal on points of law, quashed the judgment of 8 January 2002 and remitted the case to the Labour Court of Appeal (no. 2 AZR 177/02). Under the case-law of the Federal Labour Court, gross insults directed against the employer or the employer's representative, which constituted a serious violation of the concerned person's honour, could justify dismissal on grounds relating to the employee's conduct. In order to establish the seriousness of the violation of honour, it had to be established whether the applicant's allegations were based on objective facts. Account also had to be taken of whether the criticism had been made among staff members or whether other persons had been present. Finally it had to be considered that employees of the public service had to respect specific obligations under their Code of Conduct.

15. The Federal Labour Court confirmed that the right to freedom of expression always had to be taken into account when assessing inappropriate language in a workplace context and that the applicant's allegations fell within the scope of his right to freedom of expression. Accordingly, the court had to weigh this right against the protected legal interest with which there had been an interference.

16. The Federal Labour Court considered that the Court of Appeal, when weighing the competing interests, had failed to establish correctly the seriousness of the applicant's allegations and of the violation of the Deputy Mayor's personality rights. Under the Criminal Code, perversion of justice was a crime subject to up to five years' imprisonment. In case of a criminal conviction under this provision, a deputy mayor would automatically lose his office. The conduct of a public service employee had to be measured against a stricter yardstick than that of an employee in the private sector. In particular, the employee was under an obligation to behave in such a way as not to interfere with his public employer's reputation. Under the Professional Code of Conduct, the employee had to exercise special restraint when openly criticising a superior's decisions. A public allegation of perversion of justice directed against a superior, in particular if it was unfounded, very seriously violated the superior's personality rights and interfered, as a rule, with the employee's professional duties.

17. Accordingly, in order duly to weigh the competing interests in the light of the right to freedom of expression, the Court of Appeal would have to examine whether the applicant's allegations had been justified or not. It had further to be taken into account that the allegations had been made during a staff meeting. While it was true that criticism made in this context could occasionally be exaggerated or polemic without giving the employer a ground for dismissal, this right was limited by the obligation not to disturb

peace in the office. It had to be taken into account in the applicant's favour that the staff meeting concerned the suppression of the applicant's field of work and that the atmosphere had been rather tense. However, this did not justify neglecting the fact that the allegation of perversion of justice did not concern the subject matter of the staff meeting, but a single incident which dated back several years and had not been mentioned by the applicant since 1997. The applicant did not make use of the possibility of informing the Mayor about his legal concerns regarding the Deputy Mayor's decision. At the time of the staff meeting, the decision dated back such a long time that an attempt to put the decision into question must have lacked the prospect of success. Accordingly, it appeared that the applicant's statement was rather aimed at attacking the Deputy Mayor.

18. It had also to be taken into account that the statement was made in the presence of persons who were not necessarily bound by confidentiality. Accordingly, there was the risk that the applicant's allegations would leak out of this close circle and be made known to a wider public. The Federal Labour Court finally observed that the applicant's statement had to be seen in the wider context of his conduct and that the applicant had further exacerbated the conflict by the content of his written comments.

19. On 16 November 2004 the Saxon Labour Court of Appeal quashed the judgment of the Labour Court dated 24 May 2000 and dismissed the applicant's action.

20. The Labour Court of Appeal considered that the applicant's dismissal had been justified because the applicant, in his statement at the staff meeting and in his subsequent written submissions, had seriously insulted and slandered the Deputy Mayor by accusing him of perversion of justice. Based on a detailed examination of the factual and legal situation in 1995/1996, the Labour Court of Appeal considered that the decision taken by the Deputy Mayor at that time had been lawful. The applicant's written submissions of 17 December 1998 demonstrated that he was not willing to accept and implement politically legitimate decisions, if they concerned sanctions for misuse of property by house owners. The content of the letter to the editor (see paragraph 11, above) contained value judgments which did not amount to insult. However, the Deputy Mayor could not be expected to maintain daily co-operation with the applicant after reading this letter in which he had been described as incompetent. The Labour Court of Appeal further observed that the applicant had not revised his opinion during the proceedings.

21. The Labour Court of Appeal further considered that the employer did not have any milder means at its disposal. In particular, it would not have been sufficient to reprimand the applicant and to transfer him to another working position. The court observed that the applicant was currently working in the Public Procurement Office and that there was no negative information about his conduct. This was temporary employment

which the applicant had obtained by court order in separate proceedings. The applicant had expressed his readiness to accept employment even at a lower level. However, the Labour Court of Appeal considered that the applicant would not have changed his attitude without his dismissal from office. The Municipality could reasonably expect that the applicant would have carried on with his self-righteous attitude if he had not been dismissed. The Labour Court of Appeal finally considered that the applicant's chances of finding new employment were low. Nevertheless, the employer's interest in terminating the employment outweighed the applicant's interests.

22. On 15 March 2005 the Federal Labour Court dismissed the applicant's request to be granted leave to appeal on points of law.

23. On 25 August 2010 the Federal Constitutional Court refused to entertain the applicant's constitutional complaint (no. 1 BvR 947/05), without providing reasons.

II. RELEVANT DOMESTIC LAW

24. Section 53 of the Collective Agreement for Public Service Employees in the eastern part of Germany (*Bundesangestelltentarifvertrag Ost*, BAT-O) provides that an employee, who has worked a minimum period of five years in the public service, may be dismissed with three months' notice.

25. Section 1(1) of the Unfair Dismissal Act provides that termination of an employment relationship by the employer is unlawful if it is socially unjustified. Under section 1(2) of that Act, termination is socially unjustified unless it is, *inter alia*, based on grounds relating to the employee himself or to his conduct.

26. Article 339 of the Criminal Code provides that a judge, another public official or an arbitrator who, in conducting or deciding a legal matter perverts the course of justice for the benefit or to the detriment of a party, shall be liable to imprisonment from one to five years. Article 12 of the Code provides that unlawful acts punishable by a minimum sentence of one year's imprisonment are considered to be felonies (*Verbrechen*).

III. COUNCIL OF EUROPE DOCUMENTS

27. The model code of conduct for public officials appended to Recommendation No. R (2000) 10 of the Committee of Ministers to member states on codes of conduct for public officials – as far as relevant – reads as follows:

> Article 4
>
> 1. The public official should carry out his or her duties in accordance with the law, and with those lawful instructions and ethical standards which relate to his or her functions.
>
> 2. The public official should act in a politically neutral manner and should not attempt to frustrate the lawful policies, decisions or actions of the public authorities.
>
> Article 5
>
> 1. The public official has the duty to serve loyally the lawfully constituted national, local or regional authority.
>
> 2. The public official is expected to be honest, impartial and efficient and to perform his or her duties to the best of his or her ability with skill, fairness and understanding, having regard only for the public interest and the relevant circumstances of the case.
>
> 3. The public official should be courteous both in his or her relations with the citizens he or she serves, as well as in his or her relations with his or her superiors, colleagues and subordinate staff.

THE LAW

ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

28. The applicant complained that his dismissal from office violated his right to freedom of expression as provided in Article 10 of the Convention, which, so far as relevant, reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. (...)
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, (...) for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, (...)."

29. The Government contested that argument.

A. Admissibility

30. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The applicant's submissions

31. The applicant asserted that the staff meeting was limited to the employees of the Housing Office and, according to the relevant domestic law, was not public in order to encourage employees to speak out. Trade union representatives could attend but were obliged to respect confidentiality. The staff meeting was therefore the place determined by law to express internal criticism. According to the applicant, the content of the criticism expressed by him was entirely work-related. It was not meant to reach the public but to denounce an internal grievance.

32. Referring to the case-law of the Federal Labour Court, the applicant submitted that under domestic law the expression of an erroneous legal opinion may not lead to sanctions by the employer. He therefore had the right to comment on the unlawfulness of W.'s decision. Insofar as he used the expression "perversion of justice" this implied any kind of breach of law, intentional or negligent, but had by no means to be understood as an accusation that W. fulfilled all elements of crime prescribed in Article 339 of the Criminal Code (see paragraph 26, above).

33. The applicant further submitted that W.'s 1995/96 decision was also related to the dissolution of the sub-division. At that time the Deputy Mayor had already initiated a policy of rollback towards the regulations on misuse of housing property.

34. Finally, the applicant views the dismissal as disproportionate. His transfer to a different workplace which was not under the supervision of Deputy Mayor W. would have been sufficient to resolve the conflict. The Municipality of Dresden employed 2700 workers in seven departments, each of them led by a different deputy mayor. It would therefore have been possible to continue to employ the applicant without risking another confrontation with W. Between 2002 and 2005 the applicant was employed in another field of work and proved to be a reliable employee. Furthermore, at the time of his dismissal the applicant was 44 years old. His work experience was of limited value on the job market and he therefore had not found any possibility – save the employment between 2002 and 2004 – to be integrated into the job market, and lived on unemployment benefits.

2. The Government's submissions

35. The Government agreed that there had been an interference with the applicant's rights under Article 10 of the Convention but regarded this interference as justified to pursue the legitimate aim of protecting the reputation or the rights of others and to prevent the dissemination of confidential information. Referring widely to the arguments of the Federal Labour Court and the subsequent judgment of the Labour Court of Appeal of 16 November 2004, the Government stressed that the applicant's primary motivation was to defame the mayor personally. They argued that the applicant could not use the term "perverting the course of justice" without distinction as a lay person not working in a legal area might do.

36. Furthermore, the applicant had not undertaken any measures to resolve the dispute in 1995/96. This matter had no relevance whatsoever to the staff meeting. In any case, a staff meeting did not serve to monitor the general administrative conduct of the agency: it could only address matters which had a direct impact on the agency or its employees.

37. The Government concluded that the Municipality of Dresden had been entitled to assume that the applicant's relationship with the Deputy Mayor W. personally was not only strained, but that overall there was no longer an expectation of loyalty and acceptance towards future supervisors or towards the city administration as employer.

38. Finally the Government added that there had been no possibility of a less severe option than the dismissal of the applicant and that the applicant's non-objectionable conduct during the temporary continuation of his employment had probably only occurred because his employment had been terminated.

3. Assessment by the Court

39. The Court reiterates that the protection of Article 10 of the Convention extends to the workplace in general and to the public service in particular (see, among other authorities, *Wojtas-Kaleta v. Poland*, no. 20436/02, § 42, 16 July 2009; *Guja v. Moldova* [GC], no. 14277/04, § 52, 12 February 2008; *Fuentes Bobo v. Spain*, no. 39293/98, § 38, 29 February 2000; *Ahmed and Others v. The United Kingdom*, no. 22954/93, § 56, 2 September 1998). Accordingly, the protection of Article 10 also applies to the statements made by the applicant during the staff meeting on 9 December 1998. It follows that the dismissal from office, which was primarily based on these statements, interfered with the applicant's right to freedom of expression.

40. The Court observes that the dismissal from office was based on section 53 of the Collective Agreement for Public Service Employees in connection with section 1 of the Unfair Dismissal Act and was thus "prescribed by law" within the meaning of Article 10 § 2 of the Convention.

Furthermore, the applicant's dismissal pursued the legitimate aim of protecting the Deputy Mayor's honour and a professional work environment at the Housing Office, thus the reputation and rights of others.

41. It remains to be determined whether the interference was "necessary in a democratic society".

42. The Court reiterates the basic principles laid down in its judgments concerning Article 10 which have been summarised as follows (see, among other authorities, *Mouvement Raëlien Suisse v. Switzerland* [GC], no. 16354/06, § 48, 13 July 2012; *Matúz v. Hungary*, no. 73571/10, § 31, 21 October 2014, § 55; *Vogt v. Germany* [GC], no. 17851/91, § 52, 26 September 1995):

> "(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'. As set forth in Article 10, this freedom is subject to exceptions, which ... must, however, be construed strictly, and the need for any restrictions must be established convincingly ...
>
> (ii) The adjective 'necessary', within the meaning of Article 10 § 2, implies the existence of a 'pressing social need'. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a 'restriction' is reconcilable with freedom of expression as protected by Article 10.
>
> (iii) The Court's task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation. This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole and determine whether it was 'proportionate to the legitimate aim pursued' and whether the reasons adduced by the national authorities to justify it are 'relevant and sufficient'.... In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts ...."

43. The Court further reiterates that employees have a duty of loyalty, reserve and discretion to their employer. This is particularly so in the case of the public service, since the very nature of public service requires its employees to be bound by a duty of loyalty and discretion (compare *Guja*, cited above, § 71; see also Articles 4 and 5 of the model code of conduct for public officials adopted by the Committee of Ministers, paragraph 27, above).

44. Furthermore, under the Court's case-law, the signalling by an employee in the public sector of illegal conduct or wrongdoing in the workplace should, in certain circumstances, enjoy protection. This may be called for where the employee concerned is the only person, or part of a small category of persons, aware of what is happening at work and is thus best placed to act in the public interest by alerting the employer or the public at large (see *Guja*, cited above, § 72 and *Heinisch v. Germany*, no. 28274/08, § 63, 21 July 2011).

45. The Court's task is therefore to determine whether, in the light of the case as a whole, the sanction imposed on the applicant was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it were "relevant and sufficient" (compare *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06, 28957/06, 28959/06 and 28964/06, § 63, 12 September 2011; *Fuentes Bobo*, cited above, § 44). It has to take into account the circumstances of the case, including, *inter alia*, the applicant's motivation for his statement, its legal and factual base, the actual wording and its possible interpretations, the impact it had on the employer and the sanction inflicted on the applicant.

46. Turning to the circumstances of the instant case, with regard to the applicant's motivation, the Court observes that, at the time of the staff meeting, the Deputy Mayor's decision dated back almost two years. Moreover, it appears that the applicant addressed his concerns neither to W.'s superior, nor to the public prosecution. The applicant himself claims that he did not want to address the public. Finally, the issue was not closely related to any subject on the agenda of the staff meeting.

47. The Court further notes that the Federal Labour Court (see paragraph 17, above) held that the applicant's statement was not aimed at uncovering an unacceptable situation within the Housing Office, but was rather motivated by the applicant's personal misgivings about the Deputy Mayor arising from the prospect of the impending dissolution of his sub-division. The current case has therefore to be distinguished from cases of "whistle-blowing", an action warranting special protection under Article 10 of the Convention, in which an employee reports a criminal offence in order to draw attention to alleged unlawful conduct of the employer (see *Heinisch*, cited above, § 43).

48. The Court further observes that the Saxon Labour Court of Appeal, on the basis of a thorough examination of the factual and legal situation at the time the impugned demolition permit had been issued, considered that the decision taken by the Deputy Mayor had been lawful and the applicant's accusations of perversion of justice unfounded. The Court considers that the applicant, as the long-serving head of the sub-division in charge of sanctioning misuse of housing property, must have been well-acquainted with the legal background. Accordingly, the Court is not convinced that he

acquitted himself of the obligation to verify carefully whether his allegations were accurate.

49. Insofar as the applicant alleged that he had used the term "perversion of justice" in a colloquial way and therefore had only intended to say that the disputed action of 1995/96 had been unlawful, without implying any intentions of W. relevant under criminal law, the Court notes that the Federal Labour Court found that the applicant, as the head of a sub-division of a public authority dealing with legal issues, was more adept in legal matters than the general public. It is thus not unreasonable to assume that he should have been aware of the legal implication of the term "perversion of justice", in particular, that it described an intentional abuse of public authority punishable with a minimum of one year's imprisonment under Article 339 of the Criminal Code, thus considered a felony under domestic law (see paragraph 26, above). The Court considers the unfounded allegation of a serious crime rather a defamatory accusation than a criticism in the interest of the public (compare *Barfod v. Denmark*, no. 11508/85, §§ 31, 35, 22 February 1989) and notes that the Saxon Labour Court of Appeal held in its 2004 judgment that the applicant had never withdrawn his allegation that W. had committed this crime.

50. The Court further observes that the applicant was given the opportunity to substantiate his allegations and that he repeated his accusations in written form more than a week after the staff meeting, using the term "perversion of justice" several times in bold letters. It follows that the dismissal was not only based on the applicant's spontaneous statement during the meeting, but also on a written statement he submitted after having been given time to reflect on the impact of his allegations (see *Palomo Sanchez and Others*, § 73, cited above; and *De Diego Nafría v. Spain*, no. 46833/99, § 41, 14 March 2002). Moreover, if in doubt, he had the opportunity to verify the legal significance of the term "perversion of justice" after the staff meeting.

51. With respect to the damage suffered by the authority, the domestic courts found that the applicant's accusations were not only likely to damage the Deputy Mayor's reputation, but also to interfere seriously with the working atmosphere within the Housing Office by undermining the Deputy Mayor's authority. The Court observes that the accusations were not made publicly, but during a staff meeting. It notes, however, that the Federal Labour Court, when assessing the impact of the applicant's statement, considered that not all persons present at the staff meeting had been staff members and that there had been a risk that the applicant's allegations would be made known to a wider public. The Court acknowledges that this intensified the potential impact of the accusations as well as the fact that the crime in question was a felony, and as such the attack on W.'s reputation was even graver. For these reasons the case must be distinguished from the case of *Rubin v. Latvia* (no. 79040/12, 13 January 2015) in which the

domestic courts had not established that insults had been made (§ 91) and the applicant based his accusations on facts undisputed by the parties involved (§§ 84, 85).

52. The Court further notes that the applicant did not act in the context of an ongoing labour conflict (compare and contrast, *Palomo Sanchez and Others*, § 72, cited above), nor submit any trade union activity on the issues at stake nor claim to be a union activist himself.

53. The Court observes that the applicant's dismissal from office constituted the heaviest sanction possible under labour law (compare *Heinisch*, cited above, § 91). It further notes that the Saxon Labour Court of Appeal in its judgment of 16 November 2004 held that the applicant's non-objectionable conduct at another working place within the Municipality of Dresden was likely to be due to his dismissal and the pending proceedings. The Court further observes that the Labour Court of Appeal acknowledged the applicant's difficulty in finding new employment at the age of 44 but still found the dismissal necessary because the applicant's behaviour – also during the proceedings before the domestic courts – had shown that the applicant was likely to reproach the Deputy Mayor's conduct in the presence of other employees and in public. Its view, that the Municipality could rightfully fear that the applicant would return to his past behaviour if reinstated, taking into account further elements such as the applicant's written comments and his letter to the editor, is not unreasonable and as such is acceptable under the Convention.

54. Having regard to the above considerations and, in particular, to the fact that the Federal Labour Court and the Saxon Labour Court of Appeal in its subsequent judgment both carefully examined the case in the light of the applicant's right to freedom of expression, the Court considers relevant and sufficient the domestic courts' reasons for deciding that the applicant's right to freedom of expression did not outweigh the public employer's interest in his dismissal.

55. The dismissal cannot therefore be considered to amount to a disproportionate interference with the applicant's right to freedom of expression. The Court concludes therefore that there has been no violation of Article 10 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 10 of the Convention.

Done in English, and notified in writing on 17 September 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek	Mark Villiger
Registrar	President