



In November 2016, the German Greens adopted the following resolution on freedom of religion and freedom of belief:

Freedom of religion and freedom of belief in the open society

(...)

Five principles of a Green religion and freedom of belief

1. Alliance 90/The Greens' policy is human rights policy. For the Alliance 90/The Greens religion policy that is why there is a decisive orientation to the human right of freedom of thought, freedom of conscience and freedom of religion. It must be ensured in all its three dimensions. Fundamental is individual freedom of religion first of all. That is freedom of belief, i.e. the right to have, look after and practise a religion or belief and to orient one's whole life to one's own belief. It is equally a negative freedom of religion, i.e. the right not to have, take care of and practise any belief and not to be restricted in one's own area of freedom by the popular beliefs of others, even if they are in the majority. This negative dimension of freedom of religion has in particular been, up until now, frequently neglected or even ignored in religion policy. Finally, the collective dimension of freedom of religion and freedom of belief includes that the religion or belief must be allowed to be practised in a community, that religion and belief also take place in the public sphere and religion and belief communities must be able to appear as actors in the public sphere. The German constitution also gives such communities corporative rights, they are also legal entities in that they practically enable their members to practise their belief.
2. Alliance 90/The Greens policy is freedom policy. A lively democracy and a functioning state based on the rule of law are preconditions of political freedom. Here, the Alliance 90/The Greens basic programme of 2002 says: "Democratic involvement is not only allowed – it is wished for and promoted by us. A functioning democracy needs a strong civil society." Such a society is more than a collection of individuals. Organisations, communities and initiatives are essential for a democracy because they give people the capacity to take action together. In this sense we also treat religion and belief communities. They can be an important pillar for social cohesion and are basic elements of a lively democracy. The precondition is that they heed the basic principles of the constitution, confront themselves with public discourse, do not make into an absolute their own views in social discourse and as such do not act in a fundamentalist way. But also criticism of religion, both within and outside the church, is part of an open and pluralist society. Critical, democratic discourse is existential for our democracy, to which all society's institutions must confront themselves, even religion communities.

3. The aim of Alliance 90/The Greens religion policy is to ensure freedom of belief in all three dimensions, to make equal treatment and pluralism a reality and to prevent discrimination. We are not aiming to push religious communities into the private sphere. However, we want to protect and to strengthen legitimate claims of people of other or no religious orientations from constituted religion communities as well as in issues of public representation. For that we need a self-conscious, ideologically neutral and active state as a counterpoint to religion and conviction communities.
4. The secular state must be neutral towards religion and belief communities and be organisationally separate from them as a principle. It must not identify with a religion or a conviction and also not give one of them preferential treatment. The religion and conviction communities have a guaranteed right to organise themselves and to govern themselves safeguarded by the constitution. That gives them the right to organise their own affairs themselves without the intervention of the state. Alliance 90/The Greens religion policy recognises this right as a consequence of the basic separation of religion and state. However this right does not have unlimited force but must also be balanced with other fundamental rights or, respectively, the fundamental positions of rights of others (practical concordance). This can lead to new developments in the realisation of fundamental rights, such as we demand for the Church's labour law for example.
5. Neutrality and separation of religion, ideology and state do not mean any ban on cooperation. Alliance 90/The Greens religion policy would like to further develop the cooperative model that has historically grown in Germany. In many issues we Alliance 90/The Greens have experienced churches as valuable alliance partners. That includes action for peace, against xenophobia, for international justice and engagement in modern genetic technology issues. Alliance 90/The Greens religious policy has developed criteria and preconditions for the state's cooperation with religious and conviction communities in a plural society. Given that there is increased diversity, the state must, as models for cooperation partners, not just have both big Christian churches in mind. The proposals for the further development of the cooperative model include in some places – such as for example with dealings with state services or the abolition of the church exiting fee – greater disentanglement of religious communities and the state.

Safeguarding pluralism

The precondition for cooperation between religious and belief communities and the state is the recognition of fundamental constitutional values, the fundamental rights of third persons as well as the fundamental principles of liberal religious constitutional law.

Alliance 90/The Greens expect from everyone in society and thereby from all communities, who are in cooperation with or want to cooperate with the state, that they comprehensively recognise positive and negative freedom of religion and conviction, that they pay heed to the equality of men and women, the rights of minorities and the rights of people who cannot or can only conditionally perceive their right to self-determination as well as to decision-making processes. The democratisation of society is a core wish of our policy here. We expect that, in collective society, they in no way tolerate any form of racism, antisemitism

and Islamophobia as well as any kind of homophobia. We also expect from everyone the safeguarding of freedom of opinion and toleration of criticism of religious doctrines, practices and traditions.

Alliance 90/The Greens are in favour of reforms that do justice to the increased diversity, the individualisation and pluralisation of the religious and belief reality in Germany. The demand for equal rights is not only legitimate but it is requested according to constitutional rights and politically desired by society. But in the cooperative relationship between the state and religious and belief communities, the preconditions for that must be fulfilled on the side of the communities, too. These are conformity with denominations, membership organisation, fulfilment of all the tasks to look after the religious denomination.

- Islamic communities can and should be recognised as religious communities if they fulfil the legal preconditions for that. When they offer the safeguards over time they can also obtain the status of a corporate body and thereby be given the same rights with respect to churches. The Muslims and their organisations must decide themselves whether and how they want to create the preconditions in the diversity of Muslim life in order to achieve an institutionalised cooperative relationship with the state. The four big Muslim associations (DİTİB, Islamrat [Islamic Council], Zentralrat der Muslime [Central Council of Muslims], V.I.K.Z.) do not, from the Green point of view, currently fulfil the preconditions of a religious community demanded by constitutional law within the meaning of religious constitutional law. They are religious clubs. Their identity and demarcation between themselves is not justified through differences in religious denomination but owed to political and language identities from countries of origin and migration history. The DİTİB is also a daughter organisation of the steering committee for religious affairs (Diyanet İşleri Başkanlığı) in Ankara. The structural independence of a state and of its current government policy does not correspond to the constitutionally required separation of religion and state.

A denomination-based new organisation of Muslims would not make churches but Islamic belief communities out of their organisations in Germany. They would have a claim to be treated on an equal legal footing. Thus Islam would actually arrive in Germany. How far the religious constitutional preconditions of Muslim communities or their fusions for an recognition within the meaning of Article 7 (3) and 140 of Constitutional Law are fulfilled, is subject to a comprehensive religion-scientific and legal constitutional examination in the federal states.

Independently of this analysis, agreements and treaties of the federal states have been concluded in past years in some federal states with various Muslim associations on issues such as religious education, celebration days, burial rights, education, broadcasting and spiritual welfare. Alliance 90/The Greens explicitly recognises these as steps of respect towards Muslim believers and assume that Green co-governed federal states use such a framework for constructively critical dialogue.

Against this background it is especially important that cooperation between new religious communities and the state envisage regular exchange and work towards the

goal that the associations develop independent domestic structures which can be self-sufficient in the long term.

- In its case law on the headscarf, the Federal Constitutional Court has strengthened positive freedom of religion. According to that it is not for the state to judge which clothing code someone sees for themselves as compulsory for religious or conviction reasons. According to this view, there can no longer be blanket bans. In addition corresponding regulations have to be effected without discrimination, i.e. they have to be valid for all religions and convictions. However, currently people are grappling not only with the headscarf but also with a burka ban and a burkini ban. The debate about the full body veil that is currently forced by parts of the Union and right wing populists in connection with terrorist attacks lacks any kind of objectiveness. Clothes codes for women are not an answer to the justified need for protection of people. We GREENS say clearly: No one should prescribe what women have to put on for religious reasons nor force them to take off clothes. We as GREENS have in the past been outspoken towards the church on its beliefs about the roles of the sexes or church sex education. In the same way we will also fight against misogynistic attitudes in Islam. The burka and the niqab can be the expression of a patriarchal, misogynistic image of society that we reject – and are often that too. Also a big majority of Muslims in Germany see such extensive covering up not as a religious imperative. But individual basic rights holders, i.e. the women themselves, take this decision and no one else for them. And: one cannot ban everything that one finds wrong. Constitutional law sets high hurdles here. Partial bans of full body veils must have well justified aims. For example, there are today already rules for determining the identity of a person or road traffic safety. It must be thoroughly checked whether there are requirements for further rules. Instead of this, a symbolic politics is carried out in the current debate on the back of women which feeds anti-Muslim resentment as a result and has even, with the right wing populists, the aim of discriminating against Muslims. The discussion is a sham debate, which distracts from the actually crucial security policy measures such as a strong, modern and adequately equipped police force as well as prevention. Whoever really wants to do something for the self-determination of women should financially support information centres which explain women's rights to them and provide them with protection when they are pressurised or threatened in their freedom and self-determination. Moreover, a Germany-wide regulation on financing shelters for women must be found and a sufficient number of shelter places for women must be made available as quickly as possible.
- No one should suffer from discrimination because of their religion or conviction. That is not only anchored in the constitution but, for example, more closely regulated also in the general equal treatment law for the area of employment and professions and in civil law. In practice there are often, however, still disadvantages. We therefore want the equal treatment law more effectively organised and, for better implementation of rights, to envisage an association's right to take legal action.
- We are in favour of looking at the public commemoration and mourning culture, which, up until now, is often being delegated to the two big Christian churches. We want to

push for a public debate on how the interests of other religious and conviction communities and the interests of people outside religious or conviction communities can be taken into account.

- We want to safeguard pastoral work in public institutions. In hospitals, homes, in the German armed forces or in penal institutions, the state has a duty to safeguard access for qualified and appropriate religious and belief staff. Those that provide this spiritual care are obliged to protect people's dignity, equal rights according to Article 3 of the Constitutional Law, basic rights to freedom and the free democratic basic order. The state must constantly pay heed to this also because of its state responsibility for institutions.
- Public welfare and utilities are state tasks which are delegate to non profit making and private economic organisations. We welcome the social engagement of religious and conviction communities in this are but want that their offer (for reasons of electoral freedom of the users) only represents a part of the basic provision in social, medical, educational and counselling areas. We welcome and support concepts for the culture-sensitive and pluralistic further development of public welfare and are in favour that as much of a multitude of offers are available to people.
- It must, as a basic principle, be safeguarded that burials can be carried out according to current religious and ideological prescriptions. We support the intercultural opening of cemeteries that is already practised in many places also in church organising institutions and are for further development of them. Interference in the right to choose the form of burial and of final resting can only be justified by regulations with hygiene reasons and by the rights of third parties. We consider the requirement for burial grounds with urn burials as not justified.
- We are in favour that, in the holiday rules of the federal states, the members of a recognised religious or ideological community are granted an appropriate number of workfree days in order to be able to engage in the holidays of their community. There should also be a similar rule for pupils. We want to stick to the legal holidays: society needs Sundays and holidays so that people rest outside their office and shop opening times and can take care of social connections. The holiday laws of the federal states can be organised, checked and, where necessary, adapted according to the variations and needs of the federal states. But we do not want to reduce the number of holidays.
- For an appropriate awareness-oriented religious curriculum on the basis of the constitutional right of each federal state there needs to be corresponding academic training for teaching staff. This happens by establishing theological studies for each of the religions and also for ideological communities, which, as humanistic associations, offer denomination-oriented classes to schools.
- Alliance 90 / The Greens are for an occupation of jobs in broadcasting commissions in which today's social, religious and ideological plurality of Germany is reflected.
- We argue for sharper differentiation and relaxation of the so-called 'dance bans' – above all with regard to public or non-public events, acts and rallies. A measure for rules that limit individual freedom on religiously justified quiet days can only be the consideration of the religious practice of others. Everything that does not disturb should be allowed. In that way at least bans on events which do not bother anyone, such as events in closed

rooms, cannot go ahead. In addition, we consider it as appropriate that municipalities have more room for manœuvre in the organisation of quiet days in order to be able to satisfy the different needs of different groups of people in their respective regions.

- Our democratic state based on rights has all the necessary means ready in order to protect itself against individual and collective abuse and also against hate speech. That is why we want to delete §166 German Penal Code (StGB). Through that there are no criminal liability gaps as the regulations on defamation, slander and hate speech are fully sufficient. The ‘public peace’ is not threatened by critical art but by religious or political fanatics who are lacking in the ability to take criticism or respect for others.

Reforming Church's labour law

Alliance 90/The Greens sees urgent need for reform with regard to the Church's labour law in the Federal Republic of Germany. Basic individual rights such as individual freedom of religion, the right to self-fulfilment, the right to a private life and to family life as well as the right to freedom of work and of profession, i.e. access without discrimination, implementation, termination of employment relations can stand in conflict with the self organisation and self governance right of the church in church-operated enterprises.

The special labour law for employees in churches in church-operated enterprises includes clear restrictions of rights of employees in relation to the positions of rights of employees in other companies and in the charitable, social and educational institutions of non-church funding bodies. The non-work related and private behaviour of an employee of a church, religious or ideological community, whose activity does not cover the area of dismissal, must not have effects related to labour law. The personal loyalty obligations of workers outside the area of religious dismissal we consider as irrelevant. Non work related behaviour of employees of a church, religion or ideological community, e.g. remarrying and LGTBIQ people, for which the activity does not cover the area of dismissal, must have not have as a consequence any effects related to the right to work such as for example a dismissal.

Through changing the general equal treatment law (§ 9 Paragraph 1 equal treatment law) and the worker rights related EU antidiscrimination directive (Art. 4 Paragraph 2) we want to tighten up exceptions for religious and belief communities and thereby give clearly more validity to individual rights. The state must do justice to its obligation to protect and to create a framework of law within which courts can make a fair evaluation between the rights of employees and the rights of particular employers. We want to protect, in church-operated enterprises, freedom of coalition and the right to strike as social basic rights for employees. Our conviction is that they are compatible with a protection inclination and the church right to self-organisation and self-governance. That is why, for the area of collective labour law we demand the checking of the provisions of § 112 of the staff representation law and §118 Paragraph 2 of the company constitution law. The aim is to rule out the general exclusion of religion and belief communities and of their charitable and social institutions from the scope of both these laws so that these treated in the same way as other charitable and social institutions in the meaning of § 118 Paragraph 1 of the company constitution law. The justified interests of church and belief institutions are thereby safeguarded in so far as they underpin the specific tendency protection of churches. In an amendment, the current

specific possibilities of the interest representation of workers of small church employers should, where possible, be safeguarded when this is wished for by the workers and the rights of the workers are not more limited than in the application of the Staff Representation Act (PersVG) or the Works Constitutions Act (BetrVG). Furthermore, there should – with consideration of the existing considerations – be a possibility to protect or to establish cross-concern interest representations as part of a new regulation, to obtain options for the church worker representation, which go even further than the existing rules of the company administration law.

From this position we welcome initiatives at the municipal level, which favour in procurement procedures those church-operated enterprises that do not apply the Church's labour law.

Make church finances more transparent

Citizens nowadays rightly expect more transparency from state dealings. That is also true for the public law corporations. We therefore want to put higher requirements on the corporate status of religious communities. Our aim is that public law corporations publicise both their assets and income and expenditure. We welcome that both the evangelical church and the Catholic church have undertaken steps in the direction of transparency and want to check if there are easy legal possibilities to achieve this aim. If this should not be the case then we want to create the corresponding preconditions through a change in constitutional law: a competence norm in the constitutional law would facilitate a simple legal regulation.

Reform church taxation

The German Constitutional Court has confirmed the church or parish tax system as compliant with the constitution. In the view of Alliance 90/The Greens politically there are good reasons for and against church taxation. Irrespective of this issue of principle the current church tax collection needs reform in order to safeguard equal treatment and data protection. Alliance 90/The Greens therefore propose the following reforms to the existing system:

- The decision whether the church tax is deducted by the financial office or the churches themselves should be left to the federal states. Bavaria is taking a good path. There, the church tax is taken by their own church tax offices and not by finance offices.
- Reform of the option to deduct special expenses from church taxation. We want to end the preference of members of the church. In the future tax payers not obliged to pay church/parish tax should obtain an additional expense free amount similar to that for church taxation for religious, charitable or not for profit purposes as long as they also actually carry out this expenditure.

Protection of data by obliging the announcement of church membership to third parties. We want that neither employers nor credit institutions can discover personal data via membership of a confession or non membership of a confession from wage tax cards or capital gains tax. We consider it as possible in a technical procedure to create ways for those who do not want to make the specific status visible for third parties (without

thereby changing payment obligations). Because the withholding tax, i.e. the payment via employers or credit institutes, is not mandatory for church tax payment.

- Reform of church tax payment in the case of marginal employment. The employer must deduct a uniform lump-sum tax for solidarity surcharge and church taxation for earned income from marginal employment at 2% of the wage. This can lead to the taxation of non church members. That is why we want that, in these cases, the raising of church taxes is not done if that can be done without more bureaucratic expenditure.
- Reform of the taxation of marriages of different beliefs, especially of so-called lifestyle expenditure in the form of special church money. We propose to orient the church tax of marriage partners without income to marital claim to maintenance instead of to lifestyle expenses. In that way we want to accommodate the principle that only whoever is themselves a member of a church is affected by church taxes. An individual taxation of a married couple would make this reform superfluous.
- Legally secure and free exit from the church: We want to create legal ways to exit the church. It cannot be that the member who has exited remains obliged to produce proof for the exit until the end of their life. In addition, we want to abolish the fee for leaving the church, which the state has been imposing up to now in order to cover the costs which arise from the receipt of the exit explanation and the documentation. Here the state is taking over a task for the churches. If it has more expenditure from this, it must settle the accounts here with the churches.

Relieving the state of services

We GREENS want to finally and resolutely implement the constitutional mission that has not been implemented since 1919 for the relief of the historical state support to the big Christian churches. The churches obtain from the state up until today services as compensation for expropriations at the time of secularisation. The constitutional mandate for the relief of these state services has not up to now been implemented. Alliance 90/The Greens demand that an expert committee is set up immediately by the German Federal Government, which prepares an overall overview of the state services within the meaning of Article 138, Paragraph 1 of the Weimar Constitution of 11 August 1919 and submits proposals for a corresponding law for relief. Here it is about so-called historical state support ("historische Staatsleistungen"), not about newly justified ones, as those with the central council of Jews. In addition, we demand the German federation and the federal states to enter into concrete dialogue. With respect to the different situation and the different amount of the paid services in the federal states there will have to be customised solutions.

In parallel a dialogue with the German bishops' conference and the council of evangelical churches in Germany should be initiated in order to be able to implement as quickly as possible the reliefs from state services that are sought. That 'relief constitutional law' can be decided by the Bundestag and Bundesrat in the context of an agreement with or without the approval of the affected churches as it only sets down the modalities of a subsequent relief.

In addition to and independently of the big solution we want to push ahead with relief based on an agreement and to create the corresponding framework conditions for that. In some

federal states there is already a *de facto* partial relief taking place, through which state obligations are being fully relieved via agreements between the federal state and churches. In order to give the public a qualified representation of state services, we call on those federal states, where it is not transparent enough, to change annual budget plans so that state services are represented in a differentiated way.