



Home School Legal Defense Association

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April 25, 2024

The Honorable Jim Jordan
 Chairman
 House Judiciary Committee
 2056 Rayburn House Office Building
 Washington, D.C. 20515

RE: Official Request for Consideration of H.R. 5423, private bill for the Romeike Family

Dear Chairman Jordan:

By way of introduction, the Home School Legal Defense Association (HSLDA) was founded in 1983 to defend, advance, and promote homeschooling. As a public interest advocacy organization, HSLDA works to defend and advance homeschooling at the local, state, federal, and international level. We currently have more than 98,000 families who are members of our association across the nation. These families have chosen to stand with us in this work as we seek to advocate for homeschool freedom and related constitutional rights.

Uwe and Hannelore Romeike and their children are members of HSLDA, and I am their lawyer.

I write to you today to officially request that the House Judiciary Committee take up and send to the full House of Representatives H.R. 5423, Representative Diana Harshbarger’s private bill for the Romeike family.

The Romeike family lives in Morristown, Tennessee. They have seven children, Daniel Romeike, age 26, Lydia Romeike Bates, age 25, Joshua Romeike, age 24, Christian Romeike, age 22, Damaris Romeike, age 18, Sarah Romeike, age 12, and Rebecca Romeike, age 10. Sarah and Rebecca were both born in the United States and are U.S. citizens, while the other five were born in Germany and came with their parents to the United States in 2008. Both Daniel Romeike and Lydia Romeike Bates are married to U.S. citizens. Lydia and her husband, Trace, recently welcomed their first child, who is a U.S. citizen.

The Romeike family’s homeschool journey began in 2006 in Bissingen, Germany, a district of Ludwigsburg, Baden-Württemberg. At that time, they chose to withdraw their children from German public schools in order to educate them according to their religious convictions. They subsequently experienced immense persecution from the German authorities, including exorbitant fines, the forcible removal of their school-age children from their home on at least one



occasion, and the threat of loss of their parental rights and imprisonment. As of the date of this letter, nothing has changed in Germany, and homeschooling is still highly restricted by the German government. Indeed, the European Court of Human Rights has twice upheld Germany's laws which severely curtail homeschooling.¹

In August of 2008, Uwe and Hannelore and their 5 children arrived in the United States and were admitted under the visa waiver program. With the help of HSLDA, they applied for asylum within 90 days.

On January 26, 2010, U.S. Immigration Judge Lawrence O. Burman issued an oral decision granting the Romeike family asylum in the United States. Judge Burman found that the Romeikes “had a well-founded fear of persecution based on their membership in a ‘particular social group’: homeschoolers.”² Judge Burman, having considered the substantial evidence and heard the witness testimony, concluded that the Romeikes were eligible for asylum and, therefore, granted all seven Romeikes asylum in the United States.

This should have been the end of the Romeikes’ odyssey. But it was not. The Obama administration took the unusual step of appealing Judge Burman’s decision. On May 4, 2012, the U.S. Board of Immigration Appeals overturned Judge Burman’s decision and ordered Uwe and Hannelore and their five German-citizen children removed from the United States to Germany.³ HSLDA appealed the Board of Immigration Appeals’ decision to the Sixth Circuit Court of Appeals, only to lose the appeal on May 14, 2013.⁴ On March 3, 2014, the U.S. Supreme Court declined to grant certiorari.⁵

On June 27, 2012, facing imminent deportation back to Germany, the U.S. Department of Homeland Security placed the family under a written Order of Supervision and the Romeike family was orally informed that they would be placed in “indefinite deferred action status.” This was understood to mean that the U.S. government would not take any action to execute the May 2012 removal order.

Since their arrival in the United States more than 15 years ago, every member of the Romeike family has been upstanding in their community and a model citizen. They have fully complied with the Order of Supervision, submitting to all mandatory check-ins with immigration agents required of them. They have successfully assimilated into their local community and the fabric of American life. Uwe Romeike works as a classical piano teacher at a Christian university as well as his private piano studio. They have made lifelong friends in their community.

On September 6, 2023, during a routine check-in with Immigration and Customs Enforcement (ICE), the family was inexplicably told to bring their passports with them to their

¹ See, *Konrad v. Germany*, App No. 35504/03 (Sept. 11, 2006), https://hsllda.org/docs/librariesprovider2/public/international/konrad_decision.pdf?sfvrsn=1db3fed1_3; *Wunderlich v. Germany*, App. No. 18925/15 (June 24, 2019), <https://hudoc.echr.coe.int/?i=001-188994>.

² *Romeike v. Holder*, 718 F.3d 528, 530 (6th Cir. 2013), *rehearing and rehearing en banc denied* (Jul 12, 2013), *certiorari denied*, 571 U.S. 1244 (Mar. 3, 2014).

³ Uwe [REDACTED] Romeike, [REDACTED] – [REDACTED] (BIA May 4, 2012).

⁴ *Romeike v. Holder*, *Id.*

⁵ 571 U.S. 1244 (Mar. 3, 2014).

next meeting, signaling that they were going to be deported back to Germany. They were to report back to the Knoxville ICE office in just over four weeks' time. The September 6, 2023 note on the order of supervision reads:

“NEXT 10-11-2023 BRING PASSPORT”

On October 11, 2023, I accompanied the Romeike family as they reported to ICE as directed, met with ICE officials and were told to return in October 2024. ICE informed the Romeikes they did not know what would happen in 2024 when they returned. The Romeikes' status and future in the United States remains uncertain.

This is the Romeike family's current situation. This law-abiding and freedom-loving family has chosen to make the United States of America their home. They came here—like so many of those who founded our great nation—to escape religious persecution and seek the God-given freedom that they desired. They left their native Germany and their friends and family to be able to live in the peace and freedom that can only be found in the United States of America. They have lived in uncertainty—but in faith—for more than 15 years since that day they came to the United States in 2008. Only H.R. 5423 can give them the certainty and freedom that they yearn for.

I respectfully ask that you and the House Judiciary Committee take up H.R. 5423 and send it to the full House of Representatives for consideration. The Romeikes are proper and right recipients of the lawful permanent residence status that H.R. 5423 would provide.

Thank you for your consideration. Should you have any questions or require any additional information, please do not hesitate to contact me. I can be reached via email at kevin.boden@hsllda.org, and via phone at (540) 338-5600.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read "Kevin Boden".

Kevin Boden, Esq.
Director, HSLDA International

ENCLOSURE 1: Romeike Family Asylum Request Package

ENCLOSURE 2: Judge Lawrence O. Burman Order

ENCLOSURE 3: Board of Immigration Appeals Decision

ENCLOSURE 4: Sixth Circuit Court of Appeals Decision

ENCLOSURE 5: May 24, 2013 Letter from Members of Congress to Attorney General Holder

ENCLOSURE 6: September 27, 2023 Letter from Senator Marsha Blackburn to Secretary= Mayorkas

ENCLOSURE 7: October 3, 2023 Letter from Members of Congress to Attorney General Garland and Secretary Mayorkas

ENCLOSURE 8: Written Order of Supervision Dated June 27, 2012

ENCLOSURE 9: Letter from Romeike Family to Chairman Jordan

Enclosure 1:
The Romeike Family Asylum Request Package

Respectfully Submitted by HSLDA Action

NON-DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MEMPHIS, TENNESSEE

In the Matters of

ROMEIKE, Uwe Andreas Josef
FUNK, Hannelore ("Mrs. Romeike")
ROMEIKE, D [REDACTED]
ROMEIKE, I [REDACTED]
ROMEIKE, J [REDACTED]
ROMEIKE, C [REDACTED]
ROMEIKE, D [REDACTED]

Applicants for Asylum/Withholding

File Nos.: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Immigration Judge Lawrence O. Burman

Next Hearing: 12/16/09 at 9:00 am

RESPONDENT'S PRE-HEARING BRIEF IN SUPPORT OF
ASYLUM OR WITHHOLDING OF REMOVAL

INTRODUCTION

Uwe Romeike and his wife, Hannelore (hereafter “Mrs. Romeike”), are German parents who have chosen to homeschool their children for religious and conscientious reasons. Homeschooling, however, is more than a personal educational choice; those who choose to homeschool are members of one of the most significant social movements of the late twentieth and early twenty-first centuries.

“Home schooling is . . . a social movement, with a rich history and elaborate organizational apparatus,” says American sociologist Mitchell Stevens in his book, *Kingdom of Children*.¹ “[H]ome schooling is not a random collection of individuals but an elaborate social movement with its own celebrities, networks, and characteristic lifeways.”²

In other words, “homeschoolers,” as members of this movement call themselves, are members of a “particular social group” in the vernacular of United States immigration law. Uwe and Mrs. Romeike are unquestionably members of this particular social group.

Homeschooling is a legal educational option in every major western country except Germany.³ In scores of cases, the German courts have noted that children who have been homeschooled are bright and well educated. According to the German Courts, however, this is irrelevant. The German Federal Constitutional Court has explicitly held that Germany is entitled to forbid homeschooling *precisely because* “homeschoolers” represent a particular social group it may legitimately suppress.⁴

In the 2003 *Konrad* case, the German Federal Constitutional Court reasoned that Germany may legitimately suppress the homeschooling movement because “[t]he general public has a justified interest in counteracting the development of religiously or philosophically motivated ‘parallel societies’ and in integrating minorities in this area.”⁵

Members of the homeschooling movement in Germany are fined exorbitantly. Their wages are garnished and homes and property seized. Their children are taken away from them by the state, and some parents are even incarcerated. This excessive, pervasive, and targeted treatment goes beyond mere *prosecution*; it is *persecution* of members of a particular social group justified by what the German Court described as “counteracting the development of religiously or philosophically motivated ‘parallel societies.’”⁶

United Nations Special Rapporteur Werner Munoz writes that “[t]he promotion and development of a system of public, government-funded education should not entail the suppression of forms of education that do not require attendance at a school. In this context, the

¹ Mitchell Stevens, *Kingdom of Children*, Princeton University Press, Princeton, NJ (2001), 4.

² *Id.*, introduction.

³ See <http://www.effe-eu.org/effe2/index.php?atlas> (site has English language available – click on UK flag for English language); see also Affidavit of Michael P. Donnelly, Esq., paragraph 15, Tab J, p. 415; see also Wikipedia entry, Tab E, page 120.

⁴ *In the case relating to the constitutional complaint of Mr. Konrad*, German Federal Constitutional Court (1 BvR. 436/03, decided 04/29/03), Tab H, p. 256.

⁵ *Id.* (emphasis added).

⁶ *Id.* at paragraph bb.

Special Rapporteur received complaints about threats to withdraw the parental rights of parents who chose home-schooling methods for their children.”⁷

Thomas Spiegler is a professor at Friedensau University in Germany where he teaches sociology. He received an award from the German Sociological Association for his dissertation about home education in 2008. He writes in the November 2009 journal *Theory and Research in Education* that “all of the above sanctions, ranging from a fine and a prison sentence up to the loss of child custody, have been applied during the last decade to prevent parents from practicing home education...”⁸

Some homeschoolers, rather than sacrifice either their children or their convictions, have split up and “separated for years—the fathers remaining in Germany to provide for their families and mothers and children living in another country where they are able to safely homeschool.”⁹ Additionally, every year dozens of homeschooling families flee Germany to other countries where members of this particular social group may follow their consciences without persecution. Respondents are one such homeschooling family.

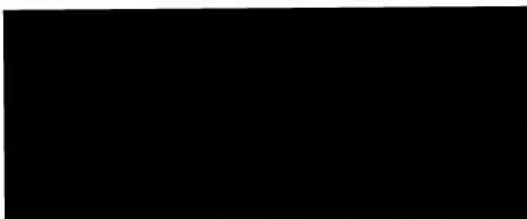
Lead respondent and principal applicant, Mr. Romeike (pronounced “roh-MY-kee”), has applied for asylum or withholding of removal. His wife and five children are derivative beneficiaries of his asylum application. If the alternative relief of withholding becomes necessary, each of Mr. Romeike’s derivatives filed separate I-589 applications so that they may each be considered principal applicants for withholding.

In support of their cases, Mr. Romeike, through counsel, hereby states the following:

FACTS

Mr. Romeike is a 38-year-old¹⁰ citizen of Germany married¹¹ to 36-year-old¹² Mrs. Romeike, also a citizen of Germany. They have five children, natives and citizens of Germany:

- 1.
- 2.
- 3.
- 4.
- 5.



⁷ “Report of the Special Rapporteur on the right to education, Addendum: Mission to Germany,” U.N. Human Rights Council, Fourth session, A/HRC/4/29/Add.3 (03/09/07), paragraph 62, Tab I, p. 326.

⁸ See Affidavit of Michael P. Donnelly, Esq. at paragraph 6 discussing Thomas Spiegler, *Why State Sanctions Fail to Deter Home Education: An Analysis of Home Education in Germany and its Implications for Home Education Policies*, *Theory and Research in Education*, 297-309 (2009) at 300. Affidavit attached at Tab I, page 413. Spiegler article attached at Tab J, page 394.

⁹ Michael Farris, “New Strategy for Securing Homeschool Freedom in Germany,” Home School Legal Defense Association (05/10/07), Tab I, page 318. See also *In the family case concerning underage children (Dennis Plett)*, German Federal Court of Appeals (XII ZB 42/07, decided 10/17/2007), paragraph 3, in which the German Federal Court of Appeals ruled that it was appropriate for German courts to exercise custodial authority over children who were not present in Germany but had moved to Austria in order to homeschool. Tab H, page 268.

¹⁰ D.O.B. [REDACTED]

¹¹ D.O.M. [REDACTED]

¹² D.O.B. [REDACTED]

From August of 1996 to August of 2008, the Romeike family lived in Bissingen, Germany, in the State of Baden-Wuerttemberg. Mr. Romeike supported his family as a freelance private piano teacher. Mrs. Romeike had also been a professional music teacher.

In the fall of 2006, Mr. and Mrs. Romeike did not send their school-age children to the government elementary school. Instead, they began to homeschool them. Mr. and Mrs. Romeike did the teaching and the curriculum was provided by The Philadelphia School of Siegen, Germany, a private Christian correspondence school. The school was previously accredited as a state-approved private school for on-site students before becoming exclusively a correspondence school. The school work of the Romeike children was graded by staff of The Philadelphia School. Mr. and Mrs. Romeike also became members of a homeschool support group in the state of Baden-Wuerttemberg.

Particular Social Group

Homeschoolers in Germany make up a particular social group as evidenced by several factors. German homeschoolers hold conferences that are exclusively for their participation.¹³ German homeschoolers organize support groups for their exclusive participation.¹⁴

Specific private organizations have been created to serve the needs of homeschoolers. For example, the Netzwerk Bildungsfreiheit has been organized to campaign for the legalization of homeschooling and other alternative forms of education.¹⁵ The organization Schulunterricht zu Hause e.V., (Schuzh) (“Instruction at Home”) is a national organization that offers homeschoolers legal counsel in issues related to homeschooling.¹⁶ Bundesverband Natürlich Lernen! e.V. (“The National Association for Natural Learning”) is another national organization established to advocate for alternative education for parents who wish to homeschool their children.¹⁷ Schulbildung in Familieninitiative e.V. (“Family Initiative for Education”) was formed to provide information and support to families who choose to homeschool in Germany.¹⁸

As Professor Spiegler notes, “[m]any home educators regard themselves as freedom fighters or pioneers of an enlightenment. They see themselves as reformers who have to accept resistance, while they are trying to establish a new common good.”¹⁹

¹³ See Affidavit of Michael P. Donnelly, Esq., paragraphs 7-8, p. 413.

¹⁴ See Affidavit of Michael P. Donnelly, Esq., paragraph 6, p. 413.

¹⁵ See the Netzwerk’s website at <http://netzwerk-bildungsfreiheit.de/> (the link is to the German language website; see also the discussion in Donnelly’s Affidavit at paragraphs 8-9, pp. 413-414.)

¹⁶ See the Schuzh’s website at <http://www.schuzh.de/cms/index.php?id=2> (the link is to the German language website; see also the discussion in Donnelly’s Affidavit at paragraph 8, pp. 413-414.)

¹⁷ See the Bundesverband’s website at <http://www.bvnl.de/> (the link is to the German language website; see also the discussion in Donnelly’s Affidavit at paragraph 8, pp. 413-414.)

¹⁸ See the Schulbildung’s website at <http://www.sfev.de/> (the link is to the German language website; see also the discussion in Donnelly’s Affidavit at paragraph 8, pp. 413-414.)

¹⁹ Spiegler at 304 (Tab H, p. 402).

Persecution

As detailed in his affidavit in support of his asylum application, Mr. Romeike and his wife and children suffered constant persecution because of their homeschooling. The following is a non-exhaustive list of persecution they suffered:

Threats

- On 09/20/2006, Wolfgang Rose, the principal of the government school, confronted Mrs. Romeike at home, uninvited. He demanded that the children attend the government school, or he would retaliate with unspecified action.
- On 09/21/2006, in writing, Principal Rose repeated his threat.
- On 09/25/2006, Principal Rose confronted both Mr. and Mrs. Romeike at home. He stayed for about 90 minutes. Principal Rose insisted Mr. and Mrs. Romeike could not teach their own children. He rejected and disparaged their motives of religious conviction and their exercise of parental rights regarding educational choice. He demanded that the children attend the government school, or they would suffer consequences.
- On 10/06/2006, by telephone, Mayor Kümmerle, the head law enforcement official in the town of Bissingen, told Mr. Romeike that homeschooling was not in the best interests of the children. He too rejected and disparaged their motives of religious conviction and their exercise of parental rights regarding educational choice. He too demanded that the children attend the government school, or they would suffer consequences.
- On 10/09/2006, in writing, Mayor Kümmerle threatened to fine Mr. and Mrs. Romeike € 30,00 (about \$45.00 USD) per child, per day (about \$675/wk), if they continued to homeschool their children.²⁰ He also threatened to make the Romeike children attend the government school through the use of police force. Both of these specific threats were subsequently made good.
- On 10/24/2006, Principal Rose wrote that he would be reporting the Romeikes' failure to send their children to the government school to the Jugendamt (Youth Welfare Office). The threats by Principal Rose upset Mr. and Mrs. Romeike, as they knew other homeschooling parents had been fined very large amounts, arrested, imprisoned, and had their children taken away.
- On 12/12/2006, Dr. Klein, in person, threatened zero-tolerance enforcement of mandatory attendance at the government school.
- On 12/19/2006, Dr. Klein wrote that the Romeike children were required to attend government school. He threatened continued fines and other consequences.

²⁰ See Letter by Mayor Kümmerle to Mr. and Mrs. Romeike (10/09/06), attached at Tab C, previously submitted.

Physical Harm

- On 10/20/2006 (Friday), at about 7:30 a.m., armed and uniformed police officers entered the Romeike home. Without a written order, the officers forcibly took the Romeike children from the home and drove the crying, traumatized children to the government school.
- On 10/23/2006 (Monday), at about 8:30 a.m., armed and uniformed police officers again came to the Romeike home to forcibly take the children away, and would have succeeded but for the group of German citizens protesting outside the Romeike home.

Intimidation and Belittling

- In November of 2006, Mr. and Mrs. Romeike were confronted by Dr. Klein who, unannounced, brought to the meeting an agent from the Jugendamt, the agency with authority to take children away from their parents.
- The German authorities temporarily excused the Romeike children from attending the government school, based upon a doctor's letter issued November 13, 2006 that claimed enforced attendance at the government school would cause the Romeike children undue stress with psychosomatic consequences. This notice was issued by the health department and the reasoning alarmed Mr. and Mrs. Romeike, as such reasons have been used in other cases in Germany to force homeschooled children into a psychiatric clinic and to take the children away from their parents.
- The German authorities, including civil judges, continually rejected the Romeikes' arguments regarding their consciences, parents' rights, and freedom of educational choice.

Fines

- On 12/19/2006, Mr. and Mrs. Romeike were each fined € 75,60 (about \$112.00 USD), per school-age child, for 22 school days of absence. The total bill was € 453,60 (about \$672.00 USD).
- On 04/03/2007, Mr. and Mrs. Romeike were again fined, per parent, per child.
- On 05/23/2007, Mr. and Mrs. Romeike were fined € 3485,70 (about \$5,115.00 USD).
- On 08/16/2007, Mr. and Mrs. Romeike were again fined.
- On 09/04/2007, Mr. and Mrs. Romeike were fined € 385,92 (about \$571.00 USD).

- On 10/26/2007, Mr. and Mrs. Romeike were again fined € 4430,70 (about \$6,490.00 USD). This time, with the threat that if they did not pay, the authorities would seize their property.
- On 03/26/2008, Mr. and Mrs. Romeike were fined € 2954,00 (about \$4,330.00 USD).

Mr. and Mrs. Romeike attempted to stop the fines through the German court system, but to no avail. To collect these fines, the officials could begin proceedings to take away Mr. Romeike's home.²¹ Mr. Romeike and his family fled Germany before these proceedings could be completed.

On 08/17/2008, Mr. Romeike and his family flew from Germany to the United States of America. At Atlanta, Georgia, they were inspected as Visa Waiver Program (VWP) entrants. They were admitted as visitors, authorized to stay until Saturday, 11/15/2008. They have resided in Tennessee where they continue to lawfully educate their own children at home under Tennessee law.

On Monday, 11/17/2008, the U.S. Citizenship and Immigration Services (CIS) acknowledged the reception of all seven I-589 forms, one for each member of the Romeike family. As a VWP entrant "not yet served with Form I-863, you may file your completed Form I-589 with USCIS Service Center having jurisdiction over your application." Form I-589 Instructions, at page 12. In compliance with the instructions, the Romeikes correctly filed their I-589 forms with CIS. On 01/13/2009, the CIS referred the I-589 forms to the Immigration Court.

ISSUE

Did Mr. Romeike suffer past persecution or does he have a well-founded fear of future persecution on account of his membership in a particular social group or political opinion? Would his life or freedom be threatened in Germany because of a protected ground?

SUMMARY OF THE ARGUMENT

Mr. Romeike is a member of a particular social group of "homeschoolers." Homeschoolers in Germany share both key characteristics of a particular social group, i.e., "particularity" and "visibility." Additionally, Mr. Romeike has, in fact, suffered past persecution and has a well-founded fear of future persecution, because Germany's prosecution of Mr. Romeike rises to the level of persecution. Germany's punishment was and is excessive and is designed to suppress or discourage this particular social group from existing, growing, or flourishing. The prosecution was and is discriminatory and targeted because non-homeschooling truants are not as zealously prosecuted and exceptions to compulsory attendance are not granted to homeschoolers but are granted to others. Germany's persecution of Mr. and Mrs. Romeike and other homeschoolers is also criticized by the international community as contrary to basic rules of human conduct.

²¹ See Affidavits of Mr. and Mrs. Neubronner, Tab D, pages 98-100, previously submitted. See Affidavit of Heiko Krautter Tab G, page 246.

BURDEN OF PROOF

The Romeike family should be granted asylum if they prove by a preponderance of the evidence²² that they are refugees,²³ defined as “any person who is outside any country of such person’s nationality ... and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”²⁴ An asylum “applicant may qualify as a refugee either because he or she has suffered past persecution or because he or she has a well-founded fear of future persecution.”²⁵

In the alternative, the Romeike family should be granted withholding of removal if they prove a “clear probability” that it is “more likely than not”²⁶ that their “life or freedom would be threatened in [Germany] because of [their] race, religion, nationality, membership in a particular social group, or political opinion.”²⁷

ARGUMENT

I. Germany’s Punishment of Homeschoolers is on Account of a Protected Ground.

Homeschoolers, as members of a particular and visible social movement, are able to follow their consciences in every major Western country except Germany. The German government, supported by its high courts, has instead taken a position of official intolerance of this particular social group. Germany’s Federal Constitutional Court has held that the German government has a legitimate interest in targeting individual homeschoolers for the very purpose of suppressing the homeschooling movement and preventing this particular social group from flourishing.

The reality in Germany is that when authorities discover homeschoolers, the wheels of the state machine begin to turn to progressively increase pressure beginning with demands that the parents violate their consciences and put their children in a state-approved school. Then authorities impose ever-increasing and excessive fines. If payment is not made or submission compelled, wages are garnished and property seized. At the same time, either in parallel or sequentially, the Jugendamt²⁸ may seek to take custody of the children, a criminal prosecution may be initiated, and the parents may be jailed. This is persecution on account of one or more of the qualifying protected grounds.

These facts not only prove that the harm *is* persecution, they also prove that the persecution is *on account of* Mr. Romeike’s membership in a particular social group and/or his political opinion.

²² *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985); 8 CFR 1208.13(a), 1208.16(b).

²³ Section 208(b)(1)(A) of the Immigration and Nationality Act (INA).

²⁴ INA 101(a)(42)(A).

²⁵ 8 CFR 208.13(b).

²⁶ *INS v. Stevic*, 467 U.S. 407 (1984); *Lin v. INS*, 238 F.3d 239, 244 (3d Cir. 2001).

²⁷ INA 241(b)(3)(A).

²⁸ The Jugendamt or “Youth Welfare Office” is Germany’s equivalent of the Department of Social Services.

A. Membership in a Particular Social Group

According to the Sixth Circuit, “[t]he BIA has defined a ‘particular social group’ as ‘a group of persons all of whom share a common, immutable characteristic.’”²⁹ Additionally, “whatever the common characteristic that defines the group, it must be one that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.”³⁰

1. German Homeschoolers Share a Common Characteristic.

The particular social group to which Mr. Romeike belongs consists of those parents who for religious, political, social, academic or conscientious reasons do not send their children to state-approved schools, but choose to educate them at home. The opposition to sending their children to state-approved schools shared by Mr. Romeike and other German homeschoolers is so profound that many, including Mr. Romeike, have chosen to suffer the severe consequences of noncompliance in order to follow their consciences.

Earlier this year, the Sixth Circuit in *Al-Ghorbani v. Holder* favorably quoted an opinion of the Third Circuit that held that Iranian feminists who refuse to follow the government’s gender-specific laws and social norms constitute a particular social group. In *Fatin v. INS*, then-Judge Samuel Alito explained that “if a woman’s opposition to the Iranian laws in question is so profound that she would choose to suffer the consequences of noncompliance, her beliefs may well be characterized as so fundamental to her identity that they ought not be required to be changed.”³¹

The same is true for Mr. Romeike and other members of the German homeschooling social group. Their religious and conscientious beliefs are so fundamental to their identity that they ought not be required to be changed. Homeschoolers in Germany are without question a particular social group.

2. German Homeschoolers Have Both Particularity and Visibility.

The BIA has also stated that “two key characteristics of a particular social group are particularity and social visibility.”³² “The essence of the particularity requirement is whether the proposed group can accurately be described in a manner sufficiently distinct that the group would be recognized, in the society in question, as a discrete class of persons.”³³ Social visibility, on the other hand, requires “that the shared characteristic of the group should generally be

²⁹ *Al-Ghorbani v. Holder*, --- F.3d ---, 2009 WL 3718297 at *11 (6th Cir. 2009) (internal citations and quotations omitted).

³⁰ *Id.*

³¹ *Fatin v. INS*, 12 F.3d 1233, 1241 (3d Cir. 1993), quoted in *Al-Ghorbani v. Holder*, --- F.3d ---, 2009 WL 3718297 (6th Cir. 2009).

³² *Al-Ghorbani* at *12. See also *Matter of E-A-G-*, 24 I&N Dec. 591 (BIA 2008); *Matter of S-E-G-*, 24 I&N Dec. 579 (BIA 2008); *Santos-Lemus v. Mukasey*, 542 F.3d 738 (9th Cir. 2008).

³³ *Id.*

recognizable by others in the community.”³⁴ The shared characteristic “must be considered in the context of the country of concern and the persecution feared.”³⁵

Mr. Romeike meets these requirements. He is a “homeschooler,” a member of the homeschooling movement. He is viewed as a member of this particular social group by 1) German society at large, 2) other members of his particular social group, and 3) his persecutors who are motivated to persecute him because of his membership in the particular social group.

Homeschoolers in Germany make up a particular social group as evidenced by several factors. German homeschoolers hold conferences that are exclusively for their participation.³⁶ German homeschoolers organize support groups both locally and nationwide for their exclusive participation.³⁷ As outlined above, there are also German homeschooling lobbying and legal organizations.

Professor Spiegler writes that “...the home education movement has been slowly growing. Different networks have developed and now a process of professionalization and networking is *visible*. New coalitions occur outside the original milieus and try to connect home educators independent of their individual motives and the question of religious orientation.”³⁸

German homeschoolers consider themselves a social group under threat of persecution as evidenced by the testimony of the numerous families who have submitted affidavits to this tribunal. The German State considers homeschoolers to be a social group and has made ministerial statements about homeschooling at both the Federal and State level.³⁹ Most telling in this regard is the ruling of the German Federal Constitutional Court, which said that the government was entitled to suppress homeschoolers to “counteract the development of religiously or philosophically motivated ‘parallel societies.’”⁴⁰

Homeschoolers in other countries similarly consider themselves to be part of a larger social movement—a particular social group—because of similar beliefs and behaviors. Homeschoolers and homeschooling as a social movement have been the subject of numerous academic and official studies.⁴¹

³⁴ *Id.*

³⁵ *Id.*

³⁶ See Affidavit of Michael P. Donnelly, Esq., paragraph 7 and 8, Tab J, page 413.

³⁷ *Id.*, paragraph 6.

³⁸ (emphasis added) Spiegler at 300, Tab J, page 398.

³⁹ See Letter from Mr. Lambert of the Ministry for Culture, Youth and Sports of Baden Wurttemberg, March 6, 2008, Tab H, page 291; Letter to Mrs. Daniela Ehlbeck of Berlin from Elschenbroich on behalf of the Secretary of the Permanent Conference of the State Ministers for Cultural Affairs in the Federal Republic of Germany dated April 28, 2008, Tab H, page 297.

⁴⁰ *Konrad*, paragraph 8, Tab H, page 258.

⁴¹ See, e.g., Thomas Spiegler, *Why State Sanctions Fail to Deter Home Education: An Analysis of Home Education in Germany and Its Implications for Home Education Policies*, *Theory and Research in Education*, 297-309 (2009); Donald Henderson, Eugene Golanda, and Robert E. Lee, *Legal Conflicts Involving Home Instruction of School-Aged Children*, 64 Ed. Law Rep. 999 (1991); *The Condition of Education 2009*, United States Department of Education, June 2009; Susan A. McDowell, Annette R. Sanchez and Susan S. Jones, *Participation and Perception: Looking at Home Schooling through a Multicultural Lens*, *Peabody Journal of Education*, Vol. 75, No. 1/2, The Home Education Movement in Context, Practice, and Theory (2000), pp. 124-146; Katarina Tomasevski,

Mr. Romeike was a member of this particular social group in Germany. He is now a member of this particular social group in the United States. Members of this particular social group, regardless of motivation, are united by a common characteristic that is so fundamental to their identities or consciences that it ought not to be required to be changed. Parents who exercise their human right to direct the education and upbringing of their children in the form of homeschooling exhibit common characteristics which make them a cognizable group and sets them apart from German society at large. Thus, the German State is motivated to persecute Mr. Romeike because he is a homeschooler.

The evidence establishes that German officials target homeschoolers as a social group and proves their motive. The following is a non-exhaustive list:

- The European Union's Petition Committee has investigated Germany's treatment of homeschoolers.⁴²
- The United Nations has pointed out Germany's unacceptable treatment of homeschoolers should be reformed.⁴³
- The U.S. State Department has reported that homeschoolers in Germany face criminal charges and neglect charges.⁴⁴
- Tennessee and Georgia have passed resolutions calling on Germany to allow parents to homeschool.⁴⁵
- Court battles are constantly fought between Germany and homeschoolers.⁴⁶
- This issue generates national media attention in Germany (TV shows, news articles etc.).⁴⁷

Globalizing What: Education as a Human Right or as a Traded Service?, 12 *Ind. J. Global Legal Stud.* 1 (2005); Ari Neuman and Aharon Aviram, *Homeschooling as a Fundamental Change in Lifestyle, Evaluation and Research in Education*, vol. 17, no. 2-3, 132-143 (2003); Brian Ray, Ph.D., *Strengths of Their Own: Home Schoolers Across America*, National Home Education Research Institute, Salem, OR, 1997; Lawrence M. Rudner, Ph.D., *Home Schooling Works: The Scholastic Achievement and Demographic Characteristics of Home School Students in 1998*, Education Policy Analysis Archives, vol. 7, no., 8 (1999).

⁴² See Notice to Members – Petition 0477/2007, European Union Commission (01/30/2009), Tab I, page 364.

⁴³ See United Nations Human Rights Council “Report of the Special Rapporteur on the right to education” by Vernor Muñoz (03/09/07), Tab I, page 326.

⁴⁴ See U.S. Department of State, Human Rights Report (02/25/09), Tab E, page 104, 106.

⁴⁵ See State of Tennessee, House Resolution 87, adopted by vote of 97-0 (05/26/09), Tab I, page 321; State of Georgia, House Resolution 850 (03/30/09), Tab I, page 324.

⁴⁶ See Affidavit of Gabrielle Eckermann at paragraph 7, Tab J, page 408; and numerous documents regarding past persecution of similarly situated persons, Tab D and Tab G.

⁴⁷ See Associated Press article, “German Family Seeks U.S. Asylum to Homeschool Kids” by Rose French (03/31/09), Tab E, page 121. See article, “7 homeschooling dads thrown in jail” by Ron Strom (10/28/04), Tab I, page 305. See article, “German homeschool advocate says Nazis have returned”, by Bob Unruh (12/23/06), Tab I, page 307.

- German State and Federal officials comment on and explicitly identify this particular social group.⁴⁸

The German State targets homeschoolers because of the supposed larger social implications as distinct from individual educational implications for each child. German officials treat homeschoolers more harshly than parents of children who are simply truant and not receiving *any* education, either at school or at home.⁴⁹

Additionally, Germany's education laws provide for officials to grant exemptions to attendance at state-approved schools. Exemptions are routinely granted for medical and other reasons, such as in the case of parents whose work requires them to travel a great deal. But such exceptions are not granted to homeschoolers, who for religious or conscientious reasons oppose sending their children to state-approved schools and choose to provide them with education at home.

This distinction between those who are eligible for exemption and those who are not further serves to demonstrate that homeschoolers are a particular social group. Homeschoolers are denied exemptions for the express purpose of suppressing the emergence of their particular social group.

In an ironic twist, the *Konrad* Court explains that exemptions are justifiable for people whose occupation requires them to travel because the alternative, that is, requiring the children to attend a state-approved school, "can only be achieved through the separation of the children from the parents."⁵⁰ But exemption is not available to homeschoolers, the Court explains, because of the State's interest in suppressing the homeschooling movement. To achieve *this* interest, German officials have forcibly separated children from their parents. The Romeikes faced this very threat before they left Germany.

In other words, to prevent separation of children from their parents when practical reasons make it difficult to attend state-approved schools, exemptions are available. But separation of children from parents is an acceptable tactic to coerce attendance at state-approved schools when attendance at state-approved schools is opposed as a matter of conscience.

With the German high court's apparent blessing in *Konrad*, harsh treatment of individual homeschoolers creates an *in terrorem* effect to discourage others in the particular social group and people in the general population who would otherwise wish to join the particular social group. The German government's harsh and targeted treatment of homeschoolers serves to define the particular social group, proves its existence, and demonstrates the nexus between the harm and the protected ground for asylum purposes.

B. Persecution is Based Upon Mr. Romeike's Political Opinion.

In order to prove persecution on account of political opinion, the alien must show that it is his own, individual political opinion that a persecutor seeks to overcome by the infliction of

⁴⁸ *Id.* See also *Konrad*, German Federal Constitutional Court (04/29/03), Tab H, page 256.

⁴⁹ See Affidavit of Gabrielle Eckerman at paragraph 14, Tab J, page 409.

⁵⁰ *Konrad*, paragraph 12(bb), Tab H, page 259.

harm or suffering.⁵¹ The German State seeks to overcome Mr. Romeike's own, individual political opinion by escalating persecution.

In evaluating motive in a case in which prosecution for an offense may be a pretext for punishing an individual for his political opinion, U.S. asylum law sets forward a number of factors to consider: the nature of the crime; the severity of the punishment; the applicant's political opinion; the applicant's motives behind his actions; the nature of the act committed by the applicant; the nature of the prosecution and its motives; the nature of the law on which the prosecution is based.⁵²

In this case, the nature of the crime would not be recognized in other western nations, all of which provide for homeschooling. The severity of the punishment Mr. Romeike was subject to, including ever-increasing excessive and coercive fines, property seizure, taking away of children, and even the possibility of imprisonment, is completely out of balance with the minimal offense. His political opinion that he should be permitted to homeschool his children is motivated by his religious view of his role as a parent. In this case, the "nature of the act" is one of giving his children a good education, but the German State has viewed this as irrelevant. The prosecution is based on a law that requires compulsory attendance without exception for homeschooling. Based on these factors, then, it is clear that Germany's prosecution of Mr. Romeike is based on his holding a political opinion that he should homeschool his children based on his religious convictions. The absence of state concern regarding the quality of the children's education indicates that the persecution is political, not merely educational.

Evidence that punishment for a politically related act is disproportionate to the crime can also indicate persecution on grounds of political opinion rather than legitimate prosecution.⁵³ As discussed above, punishment for the politically related act of homeschooling is disproportionate. This fact not only proves that the harm *is* persecution, rather than legitimate prosecution; it also proves that the persecution is *on account of* Mr. Romeike's political opinion.

If a man refused to comply with mandatory military conscription because he disagreed with the war, his refusal would be a political expression. Mr. Romeike refused to comply with compulsory school attendance, because his conscience requires that he homeschool rather than send his children to a government-approved school. His homeschooling is a political expression. The German State is aware of Mr. Romeike's political opinion that he is compelled to homeschool, but it considers his opinion to be in opposition to its stated goal of "counteracting the development of religiously or philosophically motivated 'parallel societies' and in integrating minorities in this area."⁵⁴ As argued above, the anti-homeschooling position of the German authorities is the expression of this political opinion, which motivates the German officials to persecute Mr. Romeike and others who homeschool their children. Thus Mr. Romeike has shown that he was persecuted on account of his actual political opinion.

⁵¹ *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985).

⁵² See *Matter of S-P-*, 21 I&N Dec. 486 (BIA 1996); quoting *Matter of Izatula*, 20 I&N Dec. 149, 157 (BIA 1990).

⁵³ *Id.*

⁵⁴ *Konrad*, paragraph 8, Tab H, page 258.

C. German Opposition to Homeschooling is Based on Political, Not Educational Concerns.

There is no dispute that the Romeike children were being educated. Rather, the German officials appear to be less concerned about the Romeike children's education and more about their conformity with state-imposed curricula and so-called "tolerance" and "socialization."

Courts have held that prosecution for an offense against the "public order," e.g. for distribution of pamphlets, could be used by the state as a vehicle for the persecution of the individual on the grounds of the political content of the publication. Here, prosecution for truancy was being used by the state as a vehicle for the persecution of the Romeikes on the grounds of their lack of conformity.

The German State's resistance to homeschooling is not about education (acquisition of knowledge) but rather about so-called socialization—the acquisition of social competence, "integration into society" in order to get along in a pluralistic society by forcing children to deal with other children who hold different views. This includes forcing children to yield to teachers and/or curriculum who may promote views that are diametrically opposite to the views of the children's parents.

In *Konrad*, the German Constitutional Court reasoned that while it was possible for the German State to "supervise" parents in the act of "knowledge transfer," this would not adequately address the "socialization" issue.⁵⁵ Homeschooling may adequately impart academic education but German authorities have determined contrary to overwhelming empirical international evidence⁵⁶ that *only* school attendance can achieve the stated "educational goal of conveying social and civic competence."⁵⁷ That, the Court says, is the State's responsibility with respect to education.

Today, German schools impose state-approved curriculum and content which contain values and beliefs about all areas of life. This curriculum, like any, either implicitly or explicitly signals what is good and what is bad, what is right and what is wrong. Mr. and Mrs. Romeike disagreed with many of the values that are inherent in the State approved curriculum. But for the German State, anybody who disagrees is wrong.

In the case of the Plett Family, the highest criminal appeals court in Germany held that homeschooling may be considered *per se* child-endangerment, and the State is fully justified in

⁵⁵ *Konrad*, paragraph 7, Tab H, page 258.

⁵⁶ Studies prove home educated students tested better than their state-educated counterparts and perform better in college/university. See e.g. Brian Ray, Ph.D., *Strengths of Their Own: Home Schoolers Across America*, National Home Education Research Institute, Salem, OR, 1997. The website of the Home School Legal Defense Association (www.hslda.org) provides access to comprehensive research data regarding the academic efficacy of home education in the United States and in other countries. See also article, "New Strategy for Securing Homeschool Freedom in Germany" by Michael Farris (05/10/07), Tab I, page 318 ("In America, and other countries, research demonstrates that homeschooling does not isolate or create parallel societies but rather, it allows students to become highly engaged in society, enjoying a diverse and real-world educational experience, especially when compared to the institutional, uniform, and age-segregated public school system.").

⁵⁷ *Konrad*, paragraph 7, Tab H, page 258.

taking away custody rights of parents who do so.⁵⁸ European Union law allows the arm of the Germany State to reach throughout Europe such that German officials can petition officials in other countries (even countries where it is legal to homeschool) to have the children forcibly sent back to Germany to attend the public schools.⁵⁹

II. Mr. Romeike Has Suffered Past Persecution.

According to the Sixth Circuit, persecution is defined as “the infliction of harm or suffering by the government, or persons the government is unwilling or unable to control, to overcome a characteristic of the victim.”⁶⁰ Persecution is not limited to physical abuse, but can also include emotional and psychological elements.⁶¹ Additionally, “[t]he harm or suffering inflicted ... also could consist of economic deprivation or restrictions so severe that they constitute a threat to an individual’s life or freedom.”⁶² This is precisely the sort of persecution homeschoolers in Germany are facing.

The German authorities have sought to overcome Mr. Romeike’s fundamental belief that he has the right to direct and provide for the education of his children. They have done so through personal intimidation, threats to remove the children, actual forcible removal of the children, increasingly punitive fines, and attempted property confiscation. Germany’s persecution of Mr. Romeike and other homeschoolers rises above the level of mere prosecution because it is targeted, excessive, discriminatory, and has been criticized by the international community as being contrary to basic human rights and dignities.

A. Mr. Romeike and Other Homeschoolers Were and Are Specifically Targeted by the Government of Germany.

For a persecution claim to be sustained, Mr. Romeike needs to demonstrate that he was targeted by the government because of his membership in a particular social group. As the Sixth Circuit has explained:

[T]he critical factor is the overall context in which the harmful conduct occurred. It is not sufficient that the applicant has been subjected to indiscriminate abuse, such as physical force or violence employed against a crowd of demonstrators, or has been the victim of a random crime. Instead, the applicant must establish that he or she was specifically targeted by the government for abuse based on one of the statutorily protected grounds.⁶³

⁵⁸ See Affidavit of Gabriele Eckermann, paragraph 16, Tab I, page 409. See also *In the family case concerning underage children (Dennis Plett)*, German Federal Court of Appeals (XII ZB 42/07, decided 10/17/2007), Tab H, page 268.

⁵⁹ Affidavit of Gabriele Eckermann, paragraph 18, Tab I, page 410. See also Affidavit of Michael Bauer, Tab G, page 254.

⁶⁰ *Al-Ghorbani v. Holder*, --- F.3d ---, 2009 WL 3718297, 14 (6th Cir. 2009), citing *Khalili v. Holder*, 557 F.3d 429, 436 (6th Cir. 2009).

⁶¹ *Mashiri v. Ashcroft*, 383 F.3d 1112, 1120 (9th Cir. 2004); *Duarte de Guinac v. INS*, 179 F.3d 1156, 1163 (9th Cir. 1999).

⁶² *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985) (internal citations omitted, overruled on other grounds).

⁶³ *Gilaj v. Gonzales*, 408 F.3d 275, 285 (6th Cir. 2005).

To demonstrate this, we need go no farther than the *Konrad* decision, which specifically singles out homeschoolers as a “philosophically motivated ‘parallel societ[y]’” to be “integrat[ed]” and “counteract[ed].”⁶⁴ Mr. Romeike was not targeted by the government because his children were truant nor because they were not being educated. There has never been any question that they were being educated. He was targeted because he is a “homeschooler,” a member of an officially disfavored social group.

The purpose of punishing a negligent parent through truancy prosecution is to ensure that a child’s education is not neglected and that he receives an appropriate education.⁶⁵ Prosecution is proper and just for a parent who does not provide any education for his child. Prosecuting a parent who *does* educate his child, albeit in a non-government-approved environment, however, is unjust.⁶⁶

German officials relentlessly pursued Mr. Romeike with ever-increasing punishments rising to the level of persecution. But non-homeschooling truants are not so zealously prosecuted.⁶⁷ Germany does not fine into poverty the parent of a habitual truant, confiscating his bank accounts, garnishing his wages, putting him in prison and taking away his children, locking them up in mental wards to counter their alleged school phobia. Yet Germany *is* so zealously persecuting homeschoolers.

B. Germany’s Punishment of Mr. Romeike and Other Homeschoolers is Discriminatory and Excessive.

According to the United Nations High Commissioner for Refugees, “excessive or arbitrary punishment will amount to persecution.”⁶⁸ German officials levied excessive and impoverishing fines against Mr. Romeike in order to punish him for not complying with the compulsory school attendance law. With his modest piano teacher’s income, he could not possibly have both paid the fines and also continued to provide the basics for his family. If Mr. Romeike had not left Germany, the officials would have collected the money fined by seizing the Romeike home.⁶⁹ Mr. Romeike’s children were forcibly seized from the home on one occasion, and a second seizure would have occurred but for the protesting citizens gathered outside the Romeike home. The threat of imprisonment and losing custody of the children caused Mr. Romeike and his wife to suffer emotional trauma. They knew that other homeschool families had been fined into poverty, arrested, imprisoned, and had their children taken away.⁷⁰

⁶⁴ *Konrad* decision, German Federal Constitutional Court (04/29/03), Paragraph 8, Tab H.

⁶⁵ See *State v. Peterman*, 70 N.E. 550 (Ind.App. 1904) (“The law was made for the parent, who does not educate his child, and not for the parent who employs a teacher and pays him out of his private purse, and so places within the reach of the child the opportunity and means of acquiring an education equal to that obtainable in the public schools of the state.”)

⁶⁶ *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

⁶⁷ See Affidavit of Gabriele Eckermann, paragraph 14, Tab I, page 410.

⁶⁸ United Nations High Commissioner for Refugees, Handbook, at paragraph 85.

⁶⁹ See Affidavits of Mr. and Mrs. Neubronner, Tab D, pages 98-99, previously submitted. See Affidavit of Heiko Krautter, paragraph 15, Tab G, page 247.

⁷⁰ See Affidavit of Mr. Romeike, paragraph 11 and 62, previously submitted. See also the evidence of past persecution of similarly situated persons, attached at Tab D and Tab G.

For example, in June of 2008, because they homeschooled their children, Juergen Dudek and his wife, Rosemarie Dudek, were sentenced by a German court to three months in jail. The judge ruled that Mr. and Mrs. Dudek's violation of the truancy law was heightened by the number of their children—four of school age—and by the grave nature of their violation. The court cited the *Konrad* case and Germany's interest in counteracting "parallel societies." The judge ruled that imprisonment was necessary because Mr. and Mrs. Dudek were not deterred by fines. Also, the judge justified jailing Mr. and Mrs. Dudek to make an example of them in order to deter other parents who might dare to homeschool their children.⁷¹

In the context of mandatory military conscription, if certain religions are given alternative service while others are sent to jail, such discrimination would constitute religious persecution.⁷² In the context of compulsory school attendance, if certain parents are allowed exemption from attendance at a state-approved school while others are sent to jail, such discrimination likewise constitutes persecution. Mr. Romeike requested alternative school.⁷³ His request was denied arbitrarily.

Exorbitant fines, property seizures, imprisonment, loss of custody of one's children, and the accompanying psychological suffering individually and/or collectively rise to the level of persecution. The fines alone constitute economic persecution, as explained in the 1978 House of Representatives Report: "The harm or suffering need not [only] be physical, but may take other forms, such as the deliberate imposition of severe economic disadvantage or the deprivation of liberty, food, housing, employment or other essentials of life."⁷⁴ The German government's treatment of homeschooling families is so severe that it cannot be defended on the grounds that it is merely a generally-applicable prosecution.⁷⁵

If the fines and property seizure fail to extract the desired compliance, a criminal trial and possible imprisonment will probably follow. Also, taking the Romeike children into state custody would be another weapon for the German government to exert pressure to enforce compliance. Other homeschooled children, while in the state's custody, have been labeled as

⁷¹ Affidavit of Juergen Dudek, paragraphs 8 and 9, Tab G, pages 153-154.

⁷² See *Ilchuk v. Att'y Gen. of the U.S.*, 434 F.3d 618, 624-626 (3d Cir. 2006) (reversing BIA denial of withholding for Pentecostal who refused service in Ukraine military; if certain religions are given alternative service while others are sent to jail, that would constitute religious persecution).

⁷³ See Affidavit of Mr. Romeike, previously submitted.

⁷⁴ H.R. Rep. No. 95-1452, at 5, as reprinted in 1978 U.S.C.C.A.N 4700, 4704, 1978 WL 8575 ("House Report"), cited in *Matter of T-Z*, 24 I&N Dec. 163, 170-171 (BIA 2007) (nonphysical forms of harm, such as the deliberate imposition of severe economic disadvantage or the deprivation of liberty, food, housing, employment, or other essentials of life, may amount to persecution.); *Lukwago v. Ashcroft*, 329 F.3d 157, 168 (3d Cir. 2003) ("Persecution" has been defined as including "threats to life, confinement, torture, and economic restrictions so severe that they constitute a real threat to life or freedom."); see also *Guan Shan Liao v. U.S. Dept. of Justice*, 293 F.3d 61, 70 (2d Cir. 2002) (quoting *Yong Hao Chen v. INS*, 195 F.3d 198, 204 (4th Cir. 1999)).

⁷⁵ See *Edimo-Doualla v. Gonzales*, 464 F.3d 276, 286-287 (2d Cir. 2006) (recognizing that there may be a political purpose to prosecution and that the government would not "summon a political dissident with forms that indicate an intent to persecute"); *Towe v. Att'y Gen. of the U.S.*, 443 F.3d 310, 321-322 (3d Cir. 2006) (former military officer who fled country because his family was in grave danger of being harmed by government officials could not have asylum denied on the theory that that his fear of persecution was merely a fear of prosecution for desertion); *Hoque v. Ashcroft*, 367 F.3d 1190, 1197 (9th Cir. 2004) (finding of persecution possible where applicant was wrongly accused and government arresting opponents took power); *Lin v. INS*, 238 F.3d 239, 244 (3d Cir. 2001) (finding of persecution possible even where applicant was sought by Chinese government through lawful subpoena for arrest).

“school-phobic” and forbidden contact with the parents based on the rationale that the parents are the enablers of the phobia.⁷⁶

When the excessive and indiscriminate penalties for refusal to comply with a truancy law are impoverishing fines, property seizure, imprisonment, and loss of one’s children, and where no effective exemption is available for homeschoolers, the religiously or conscientiously motivated homeschooler fears not legitimate prosecution, but rather persecution.

C. Germany’s Persecution of Mr. Romeike and Other Homeschoolers is Criticized by the International Community as Contrary to Basic Rules of Human Conduct.

Another element of prosecution that rises to the level of persecution is “[t]he infliction of suffering or harm, under government sanction... in a manner condemned by civilized governments.”⁷⁷ Germany is the only country among western democracies where there is no freedom to homeschool – in fact, in many western democracies, the freedom for parents to teach their children is enshrined in their constitutions.⁷⁸ In his report to the United Nations Human Rights Council Special Rapporteur on the right to education, Vernor Muñoz recommended that Germany “ensure that the homeschooling system is properly supervised by the State, thereby upholding the right of parents to employ this form of education when necessary and appropriate, bearing in mind the best interests of the child.”⁷⁹

When a law, the violation of which is *malum prohibitum*, does not provide exception for the exercise of a fundamental human right, discriminatory enforcement with excessive punishment constitutes a human rights violation. Under United States law, parents have a fundamental human right to direct the education and upbringing of their own children.⁸⁰ The same is true under international law. For example, the International Covenant on Economic, Social and Cultural Rights, at article 13, stipulates that “[P]arents have the right to choose the appropriate type of education for their children.”⁸¹ The United Nations Declaration on Human Rights at Article 26(3) declares that “[p]arents have a prior right to choose the kind of education that shall be given to their children.”⁸² Violation of a parent’s right to direct his child’s education is a human rights violation. Even our own State Department recognizes Germany’s persecution of homeschoolers as a human rights violation.⁸³

⁷⁶ This is what happened to Melissa Busekros and her parents. See evidence attached at Tab D, page 142.

⁷⁷ *Abdel Masieh v. INS*, 73 F3d 579, 583 (5th Cir. 1996).

⁷⁸ See ATLAS on Freedom in Education in Europe, Germany Report, by Dr. Thomas Langer (December 2008), Tab I, page 353.

⁷⁹ “Report of the Special Rapporteur on the right to education, Addendum: Mission to Germany,” U.N. Human Rights Council, Fourth session, A/HRC/4/29/Add.3 (03/09/07), paragraph 62, Tab I, p. 326.

⁸⁰ *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

⁸¹ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3

⁸² *Universal Declaration of Human Rights*, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)

⁸³ See U.S. State Department’s Human Rights Report, Tab E, page 110 (“Some religious groups expressed opposition to the government’s prohibition of home schooling. During the year local authorities brought criminal charges against some parents who refused to enroll their children in government-licensed schools for religious reasons. In a December case, a Saxony court dropped neglect charges against the Brause family after the children passed government-administered written examinations.”)

III. Mr. Romeike has a well-founded fear of future persecution.

According to United States law, an alien who has demonstrated past persecution is presumed to have a well-founded fear of future persecution under 8 CFR 208.13(b)(1).⁸⁴ Mr. Romeike has proved past persecution. Even if, for argument's sake, he had not so proved past persecution, the evidence establishes that his fear of future persecution is well founded.

The Sixth Circuit has established that:

In order to establish that the applicant has a well-founded fear of persecution, he must show: (1) that he has a fear of persecution in his home country on account of race, religion, nationality, membership in a particular social group, or political opinion; (2) that there is a reasonable possibility of suffering such persecution if he were to return to that country; and (3) that he is unable or unwilling to return to that country because of such fear.⁸⁵

A "well-founded fear of persecution" means that a reasonable person in similar circumstances would fear persecution.⁸⁶ This "reasonable person" standard permits a finding of asylum eligibility where the probability of persecution is significantly *less* than fifty percent.⁸⁷

In order for an alien to show that it is likely he will become the victim of persecution, his evidence must demonstrate that (1) the alien possesses a belief or characteristic a persecutor seeks to overcome in others by means of punishment of some sort; (2) the persecutor is already aware, or could become aware, that the alien possesses this belief or characteristic; (3) the persecutor has the capability of punishing the alien; and (4) the persecutor has the inclination to punish the alien.⁸⁸ Mr. Romeike has met this *objective* standard with specific facts: He possesses a belief or characteristic (homeschooling) that a persecutor (German authorities) seeks to overcome in others by means of punishment of some sort (excessive fines, wage garnishment, property seizure, arrest, imprisonment and loss of custody of his children); the persecutor is already aware, or could become aware, that Mr. Romeike possesses this belief or characteristic (Mr. Romeike's sincere religious conviction requires him to continue to homeschool his children); the persecutor has the capability of punishing Mr. Romeike (the power of the German government); and the persecutor has the inclination to punish Mr. Romeike (the German government is continuing to persecute homeschoolers).

Mr. Romeike also has a *subjective* apprehension or awareness of danger. Under the BIA ruling in *Matter of Acosta*, the statutory standard for asylum requires the facts to show that an alien's primary motivation for requesting refuge in the United States is "fear," i.e., a genuine apprehension or awareness of danger in another country; no other motivation will suffice. Mr.

⁸⁴ *Matter of H-*, 21 I&N Dec. 337 (BIA 1996).

⁸⁵ *Karomi v. Gonzalez*, 168 Fed. Appx. 719 (6th Cir. 2006) (citing *Pilica v. Ashcroft*, 388 F.3d 941, 950 (6th Cir. 2004)).

⁸⁶ *Velasquez-Velasquez v. I.N.S.*, 53 Fed.Appx. 359, 6; see also *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987) (An applicant for asylum has established a well-founded fear if a reasonable person in his circumstances would fear persecution.)

⁸⁷ *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987) (A reasonable person may well fear persecution even where its likelihood is significantly less than clearly probable.)

⁸⁸ *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985).

Romeike has suffered harm in the past, as detailed in his application and affidavit. He suffered ever-escalating fines, proceedings to seize his home, police forcibly taking his children to school, threatened loss of custody of his children, and threatened imprisonment. Other homeschoolers have been and are being similarly persecuted by the German authorities. Mrs. Romeike's own sister and brother-in-law are being so persecuted (*after* the Romeike family left Germany).⁸⁹ It is such subjective fear of persecution that led the Romeike family to flee Germany altogether. A reasonable person in Mr. Romeike's situation would subjectively fear persecution due to the objective facts of such past persecution and the current conditions for homeschoolers in Germany.

If the Romeike family were to return to Germany, and were to follow their consciences continuing to homeschool, they would be further punished.

IV. Mr. Romeike is not subject to any exceptions to eligibility.

Mr. Romeike has authority under 8 U.S.C. 1158 (INA 208) to apply for asylum. He applied for asylum within one year of entering the USA.⁹⁰ He does not have any status in a safe third country,⁹¹ nor was he firmly resettled in another country prior to arriving in the USA.⁹² He has never previously applied for asylum in the USA.⁹³ He has never participated in any persecution of any person.⁹⁴ He has no criminal history.⁹⁵ He is not a danger to the security of the USA.⁹⁶

V. Mr. Romeike warrants a favorable exercise of discretion.

The totality of the circumstances and the actions of the alien should be examined in determining whether a favorable exercise of discretion is warranted.⁹⁷ The "danger of persecution should generally outweigh all but the most egregious of adverse factors."⁹⁸ Asylum should be denied in the exercise of discretion only in exceptional circumstances.⁹⁹

In Mr. Romeike's case, there are no adverse factors of the type that would outweigh a favorable exercise of discretion. Mr. Romeike's claim is in all regards a straight-forward bona fide claim lacking any such "exceptional circumstances" to warrant a denial of discretionary relief. Mr. Romeike's claim warrants a favorable exercise of discretion in a grant of asylum.

VI. If not Asylum, then Mr. Romeike should be granted Withholding of Removal.

An alien may not be removed to a country where his life or freedom would be threatened because of his race, religion, nationality, membership in a particular social group, or political

⁸⁹ See evidence re Dangel Family, Tab G, page 136.

⁹⁰ INA 208(a)(2)(B).

⁹¹ INA 208(a)(2)(A).

⁹² INA 208(b)(2)(A)(iv).

⁹³ INA 208(a)(2)(C).

⁹⁴ INA 208(b)(2)(A)(i).

⁹⁵ INA 208(b)(2)(A)(ii) and (iii).

⁹⁶ INA 208(b)(2)(A)(iv) and (v).

⁹⁷ *Matter of Pula*, 19 I&N Dec. 467 (BIA 1987)

⁹⁸ *Id.*

⁹⁹ *Id.*

opinion.¹⁰⁰ Mr. Romeike has met the burden of proving that his freedom would be threatened in Germany on account of membership in a particular social group, or political opinion. Mr. Romeike's freedom would be threatened because it is more likely than not that he would be persecuted.

In Mr. Romeike's case, he cannot in good conscience place his children in state-run or state-approved schools because his sincere religious convictions require that he and his wife homeschool their children. While other Western countries provide for homeschoolers like the Romeikes, Germany's persecution of homeschoolers amounts to disproportionately severe punishment on account of at least one of the five grounds enumerated in Section 101(a)(42)(A) of the Act.

Absent a showing that his government enacted its conscription laws with the intent of persecuting members of a certain religion, or that the laws are carried out in a persecutory manner against persons with particular religious beliefs, an alien with religious objections to military service does not establish persecution *on account of* religion even though he may be prosecuted for a refusal to perform military service.¹⁰¹ Mr. Romeike does not claim that Germany enacted its compulsory attendance laws with the intent of persecuting members of a certain religion. However, it is plain that Germany is acting in a persecutory manner against persons whose political and philosophical, sincerely-held religious beliefs or conscience forbid them from putting their children in state-run or state-approved schools. Mr. Romeike would be prosecuted for refusal to comply, thus establishing his eligibility for asylum or withholding of removal.

The evidence submitted to the Court in this case proves that to suppress homeschooling German authorities levy ever-increasing fines, seize property to collect such fines, take away children, and enforce jail sentences. The evidence proves that Mr. Romeike's claim is reasonably definite to establish that it is more likely than not he will be persecuted should he not be granted asylum.

Mr. Romeike has established that his "life or freedom would be threatened in [Germany] on account of race, religion, nationality, membership in a particular social group, or political opinion."¹⁰² He has also "establish[ed] that it is more likely than not that he ... would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to [Germany]."¹⁰³ Thus, he is eligible for either asylum or withholding of renewal.

CONCLUSION

If Mr. and Mrs. Romeike return to Germany and homeschool, obeying their consciences and exercising their fundamental human rights as parents, German officials will levy ever-

¹⁰⁰ INA 241(b)(3).

¹⁰¹ See *Matter of Canas*, 19 I&N Dec. 697 (BIA 1988); see also *Canas-Segovia v. I.N.S.*, 902 F.2d 717 (9th Cir. 1990), *vacated*, 502 U.S. 1086 (1992), *aff'd on other grounds*, 970 F.2d 599 (9th Cir. 1992).

¹⁰² 8 CFR 208.16(b).

¹⁰³ 8 CFR 208.16(b)(2).

increasing fines against them, seize their property to pay the fines, take their children away from them, and put them in prison. This constitutes persecution on account of a protected ground.

THEREFORE, Mr. Romeike's asylum application should be granted. In the alternative, Mr. Romeike should be granted withholding of removal.

Enclosure 2:
Judge Lawrence O. Burman Order

Respectfully Submitted by HSLDA Action

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
Memphis, Tennessee

File Nos.: A [REDACTED]
A [REDACTED]
A [REDACTED]
A [REDACTED]
A [REDACTED]
A [REDACTED]
A [REDACTED]

January 26, 2010

In the Matter of)
)
UWE [REDACTED] ROMEIKE)
HANNELORE ROMEIKE)
[REDACTED] ROMEIKE)
[REDACTED] [REDACTED] ROMEIKE)
[REDACTED] [REDACTED] ROMEIKE)
[REDACTED] [REDACTED] ROMEIKE)
[REDACTED] [REDACTED] ROMEIKE)
Respondents)

IN ASYLUM PROCEEDINGS

CHARGE:

APPLICATIONS:

ON BEHALF OF RESPONDENTS:
William Henry Humble, III, Esquire

ON BEHALF OF DHS:
John F. Cook, II
Assistant Chief Counsel

ORAL DECISION OF THE IMMIGRATION JUDGE

The Romeikes are a family from Germany that arrived in the United States August 17, 2008, and were admitted under the visa waiver program. They failed to depart within the 90 day time limit of that program.

The asylum application is based primarily on religion, but

also political opinion and particular social group. The background facts are as follows. The two adult Romeikes, Uwe and Anna Laura, are both music teachers. In the summer of 2006, they made the decision to take their children out of school and to homeschool their children. The children involved in that particular decision were [REDACTED] and [REDACTED], who were currently in school, and [REDACTED] who was about to start school. The adult respondents are both 38 years of age, [REDACTED] is 12, [REDACTED] is 11, [REDACTED] is 9, [REDACTED] is 7, and [REDACTED] is 2 years of age.

The reasons they decided to homeschool their children was the fear that there were negative influences in school. They felt that school engendered a negative attitude toward family and parents and would tend to turn children against Christian values, as the Romeikes saw it.

Specifically, the Romeikes objected to the teaching of evolution, the endorsement of abortion and homosexuality, the implied disrespect for parents and family values, teaching of witchcraft and the occult, ridiculing Christian values and sex education.

Although the Court is still not exactly sure what the witchcraft and occult studies are, in German public schools, the other aspects are fairly typical criticisms of public schools in the United States as well.

The Romeikes decided to enroll their children in the Philadelphia School. The Philadelphia school was, at one time, a

government sanctioned private school, but it no longer has classes as such, it operates as a private Christian correspondence school, assisting homeschoolers throughout Germany. [REDACTED], [REDACTED] and [REDACTED] were enrolled in the Philadelphia School.

Once the notification to the local school was received, respondents began to get attention from the government of their municipality. They actually cancelled the enrollment of their three children on September 15, 2006, and on September 20, 2006, Principal Rose came to visit them. Mr. Rose informed them that homeschooling is illegal in Germany and on the next day after they informed him that they were actually attending the Philadelphia School, he returned and told them that the Philadelphia School is not an approved government school.

October 9, 2006, they got a letter from the mayor informing them that they would suffer a fine of about \$45 per child, per day, and, if necessary, the government would use force. The Romeikes ignored that. On October 20, 2006, two armed police officers came to the house to take the children to school. This produced a very upsetting scene for the children, the children were crying and were upset, as the three children that were of school age were herded off to go to school. Apparently, the police had no warrant or other authorization to do this, however, the Romeikes were not aware that they had any basis to resist legally, so they allowed the children to go to school. However,

Mrs. Romeike retrieved the children at lunch hour.

On October 23, 2006, the police appeared in force this time to take the children to school. However, the neighborhood apparently had been alerted and neighbors blocked the police from taking action. At that point, the government backed off for a while, obviously they were not sure what to do. Apparently these situations are fairly rare and apparently had not occurred in this town previously.

In December of 2006, the government began to get tough, they informed the Romeikes that the children must attend school and there would be a fine of about \$672 initially, which would only escalate in the future if they continued to resist.

Also the mayor informed them that in addition to the fines, which would escalate, that they might lose custody of the children. There is a social work organization, in Germany, called the Jugendamt, which apparently means youth office in German, and they have the authority to remove children from parents under certain circumstances.

Respondents did go to Court over this and explained the situation. The Judge did not accept their explanation, he found them guilty of not sending their children to school, which is a crime.

Respondents took various legal measures over the ensuing months and they were not successful at any level. They faced escalating fines which would eventually be more than they could

afford to pay. The applicant makes about 12,000 Euros a month, and the family had been fined about 7,000 Euros at the time they left the country and the fines would only increase. If they were not able to pay the fines, they also stood to lose their property, but most importantly, they stood to lose custody of their children, and that was their main fear. There also is a possibility that they could have been sent to jail, as these are criminal statutes.

Michael Donnelly, a staff attorney, with the Homeschooling Legal Defense, testified very compellingly. He not only is an expert who has made intense study of the homeschooling situation worldwide, but he in fact has actually spoken to nearly all of the German parents who have been mentioned in the background evidence, and has virtually personal knowledge of their situations. He testified that there are very few homeschoolers in Germany, and it is not allowed by law. Further, the German Courts are not at all friendly towards homeschoolers. He testified that there are associations, that exist in Germany, about four of five of them, none of them very large. The problems started in the 1990's and they have accelerated as more people, such as the Romeikes, found out that it was possible to homeschool their children, if not legal. Mr. Donnelly stated that the fines could run from 50 Euros all the way up to 50,000 Euros, obviously a crushing fine, that the Jugendamt, would, in certain circumstances, take custody of the children, place them

in foster homes or orphanages, and send them to public school from there. Although some people have been sentenced to imprisonment, not very many have actually served in jail. The Schmidt family served 14 days in jail. The Dudek family was sentenced to 90 days in jail, but they appealed, and apparently their case has been remanded. Once again the Dudeks and the Schmidts were found guilty of not sending children to school, and are considered to be school refusers. Mr. Donnelly further testified that there are private schools, in Germany, but the private schools must be government approved, and they must use the government curriculum, which contains the items which the Romeikes find offensive. Although there may be some places in Germany where the law is not enforced at the local level, that is not a legal place of refuge, that is merely just a case of the local officials not taking action, so there is actually no safe place in Germany for the Romeikes, or people like them, to live without having these problems. Mr. Donnelly also testified that if fines are levied, which cannot be paid, property is attached and seized and the Jugendamt does take children into foster homes and orphanages. He discussed the case of the Gorbers, whose child was placed in a foster home for six months, and placed in public school, and they could not visit the child for six months. Even more disturbing, is the case of Melissa Vusekros. When her parents kept her out of school, she was treated as if she had a psychiatric affliction known as school phobia and she was

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actually placed in an asylum for the mentally ill while she was tested. This frankly is reminiscent of the Soviet Union treating political opposition as a psychiatric problem, not only a human rights violation, it is a misuse of the psychiatric profession. He discussed the Gile family, who were attempting to hide their children, having an underground school essentially, rather than something like the Philadelphia School, however, the social workers found them out and threatened them with a 75,000 Euro fine, which is well over \$100,000 U.S. When asked if some people were able to escape these penalties, Mr. Donnelly said yes they have, but it is only because they have fled from Germany, and he proceeded to list the various homeschoolers who have fled to many other countries, both in Europe and elsewhere, to escape fines, loss of custody of their children, and criminal sanctions. When asked whether there were any exceptions, he indicated the only real exception would be medical reasons, that if the child could be diagnosed with some psychological problem that would prevent being around other children, it might be possible to homeschool, although, in that case, what the government does is send in their own teachers who teach from the government curriculum. So even if that would work, and there is no evidence, in this case, that any of the children have any psychological problems, it would not achieve the goal.

The scariest thing that Mr. Donnelly testified to is the motivation of the German government in this matter. I certainly

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would have assumed that the motivation would be concern for the children. We certainly do some odd things, in the United States, out of concern for children, but the explanation is always given that the Government has a right and an interest to look after children in their country. However, that does not seem to be the explanation. Mr. Donnelly described the judicial decisions, in Germany, not so much being interested in the welfare of the children, as being interested in stamping out groups that want to run a parallel society, and apparently there is a fair amount of vitriol involved in this attempt to stamp out these parallel societies. I found that odd. Another interesting fact, is the fact that this law has not always existed in Germany, it was enacted in 1938, when Adolph Hitler and the Nazi Party was in power in Germany, and it was enacted specifically to prevent parents from interfering with state control of their children, and we all know what kind of state control Hitler had in mind. It certainly was not for the good of the children, not even facial.

Now obviously Germany has changed since 1938. Germany is a Democratic country, Germany is an ally of the United States, and Germany does provide due process of law. However, this one incidence of Nazi legislation appears to still be in full force and effect, and that is the situation that Mr. Donnelly described, and the Romeikes fear.

On cross-examination, the Government attorney discussed,

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with Mr. Donnelly, his claim that there was a petition, before the European Union, that was still open. Apparently there was a case that had been fought in the European High Court of Human Rights, in Strasbourg, which was rejected. Mr. Donnelly stated that it was rejected on some unknown ground. Mr. Cook, the Government attorney, pointed out that apparently it had been rejected on jurisdictional grounds. Regardless of who is right about that, it does not really affect the basic situation, that the European government is no more willing, than the German government, to make an exception for homeschooling for religious or philosophical reasons.

Oddly enough, although European countries are significantly less interested in the family than we are here in the United States, there is no other country, in Europe, that flat out bans homeschooling. Some of the other countries make it difficult, but the problems that I have been describing, that were described, by Mr. Donnelly, are largely restricted to Germany, they are nowhere near as bad in other European countries.

In the United States, no state bans homeschooling. There has been a lot of litigation regarding homeschooling, obviously the educational establishment, in many cases, wants to have control of children. However, the State Supreme Courts have, without exception, ruled in favor of the parents. For that reason no case has gone to the Supreme Court. However, in Wisconsin v. Yoder, 406 U.S. 205 (1972), the Supreme Court made

very clear how it would rule in this matter. That was a case of Amish parents who, for religious reasons, wanted their children taken completely out of the school, after just getting basic reading, writing and arithmetic. That was not homeschooling; that was no school. And in that case, the Supreme Court found that there was a fundamental right of a parent to establish a home and bring up the children and worship God according to the dictates of his own conscious.

This is a central right, in America. Justice Brandeis described it as part of the greater right, the right to be let alone, that the Government does not own people, that people should control the Government. So, in the United States, obviously, the Romeikes would have no problem with their homeschooling.

However, our Constitution is not in effect everywhere in the world. Maybe the world would be a better place if it were, but it is not, and we do not necessarily have any right to expect other countries to do exactly the way we do in everything. It is not just the homeschooling, religion is not free in other countries, the United Kingdom, obviously, has an established religion, which is prohibited by our Constitution, but is central to theirs, it is not an unfree country, the right to freedom of speech, that we take for granted, is not nearly as strong, in the United Kingdom, or other parts of Europe, many things that we would consider to be perfectly acceptable and protected are not

protected, and that is not necessarily persecution.

ASYLUM LAW

To qualify for asylum, pursuant to Section 208 of the Act, the applicant must show that he is a refugee within the meaning of Section 101(a)(42)(A) of the Act; that is that he suffered past persecution, or that he has a well-founded fear of future persecution in his country, on account of race, religion, nationality, membership in a particular social group or political opinion. INS v. Cardoza-Fonseca, 480 U.S. 421 (1987).

To qualify for withholding of removal, under Section 241(b)(3) of the Act, the applicant must show a clear probability that his life or freedom would be threatened on account of one of those factors. This is a higher burden of proof than for asylum.

The applicant is not applying for Convention against Torture protection.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

First of all, as to credibility, I find that the Romeikes, and Mr. Donnelly, and all of their evidence is entirely credible and believable. They are clearly honest and decent people. Mr. Donnelly, although he certainly is a partisan in this dispute, has been a highly credible expert witness, and the Court was very impressed with his testimony.

As to what happened to the respondents, in Germany, I do not find that it is past persecution. This Court sits in the Sixth Circuit and the mistreatment that they suffered, as scary as it

might be, certainly does not rise to the level of persecution. See Ali v. Ashcroft, 366 F.3d 407 (6th Cir. 2004). So no presumption arises, respondents have to demonstrate that they have a well-founded fear of persecution, or a likelihood of persecution, to qualify for asylum or withholding of removal.

As I stated, persecution is an extreme concept that normally does not include harassment, discrimination, or similar things, as morally reprehensible, as that may be. See Sako v. Gonzales, 434 F.3d 857 (6th Cir. 2006).

Normally economic deprivation, and employment discrimination fall short of persecution. Matter of H-M-, 20 I&N Dec. 683 (BIA 1993). However, severe economic deprivation, which constitutes a threat to the life or freedom of the applicant, would be persecution. Kovac v. INS, 407 F.2d 102 (9th Cir. 1969).

The central issue, in this case, is whether this situation, where a family is denied the right to homeschool their children, denied the right to educate their children in their religious faith, and in their way of thinking, would necessarily be persecution under the Act.

Respondents' counsel argues that there are three factors which constitute a nexus to the factors for which asylum can be granted. Those factors are political opinion, religion and membership in a particular social group.

As to political opinion, I do not really see a political opinion here. Obviously any opinion could be a political

opinion, if you look at it that way, however, applicant and his family have never been involved in any kind of political organization, they have never taken a formal stand on anything, other than the homeschooling, they have never spoken out and I do not believe there is any political opinion in this case.

As to religion, the Government attorney argues that their religion is a bit on the vague side. They do not appear to belong to any particular church whose rigid doctrines they are attempting to enforce. In fact, almost all Christians, in Germany, do send their children to public school, or at least government private schools. Applicant has been somewhat vague as to his religious beliefs. He has not really identified a denomination that he belongs to. Nonetheless, there is no way the Court can look at this record and say the Romeikes do not have a religion. They clearly have a religion. It may be vague and unformed in some aspects, but it is quite specific in other aspects. Specifically the raising of their children, and Mr. Romeike made it very clear that this is not just his opinion, that he feels this is God's opinion, that he wants to raise his family and also his wife wants to raise the family, in accordance with God's wishes as they understand them. There is no religious test, in the United States, and this Court is not going to have a religious test. There is certainly no reason to believe that the religious beliefs, that the Romeikes have, are anything other than entirely genuine and they certainly seem the basis of a

problem here. However, is the government attempting to suppress their religion? Not really, the government is not acting against their religion, the government is only acting against their activities, which are very simple, not sending their children to school. The government is not trying to overcome their religious beliefs, however, the government is attempting to circumscribe their religious beliefs, and if the Romeikes remained in Germany, they would not be able to exercise their religion as they see it.

As to particular social group, initially I did not see that either. However, after listening to Mr. Donnelly's testimony, it does appear that there is animus and vitriol involved here, that the government of Germany really resents the homeschoolers, not just because they are not sending the children to school, but because they constitute a group that the government, for some unknown reason, wishes to suppress. I do not attempt to understand exactly what the government would mean by suppressing a parallel society, because it is so silly, obviously there are parallel societies in Germany, as everywhere. There are different ethnic groups, there are different religions, there is a large Turkish population, in Germany, that has been there many generations. Clearly they are somewhat of an alternate society than made of Christian Germans. Yet, for some reason the government is not focused on that, the government is attempting to enforce this Nazi era law against people that it purely seems to detest because of their desire to keep their children out of

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school.

A problem with finding a particular social group is that whatever this particular social group is, parents who choose to homeschool, or however you define it, do not have any social visibility. There is no way you could tell a homeschoolers from an un-homeschooler walking the street. Therefore, under the Board's case law this would not constitute a particular social group for that reason.

However, the Board's social visibility standard has been harshly criticized in the Seventh Circuit, which held that it is actually nonsensical. I certainly do not think it is nonsensical, but the Seventh Circuit does. The Sixth Circuit, in which we sit, has never specifically impeached the social visibility standard, however, in a very recent case, Al-Ghorbani v. Holder, 585 F.3d 980 (6th Cir. 2009), the Sixth Circuit held that membership in a group opposing the repressive and discriminating customs governing marriage, in Yemen, would be considered to be a particular social group. Now the Sixth Circuit, as I stated, did not really address the social visibility issue, although clearly, in the Al-Ghorbani case, there was no social visibility, so it does appear that in the Sixth Circuit, whether or not it has actually followed the Seventh Circuit all the way, the Sixth Circuit certainly believes that there are particular social groups that do not have social visibility.

Since the group of homeschoolers, that respondents belong to, has been fined, imprisoned, had the custody of their children taken away from them, in case after case after case, and since there actually seems to be a desire to overcome something, in the homeschooling movement, even though the Court cannot really understand what that might be, I do find that the homeschoolers are a particular social group for the purpose of asylum law, in the Sixth Circuit. Currently it more than meets all the requirements set out in Al-Ghorbani. In fact, Al-Ghorbani was largely a personal situation involving a particular marriage, whereas in this case we are dealing with principle and opposition to the government policy.

So, therefore, although I do not find that there is a political opinion in this case, I do find that the religious beliefs of the Romeikes are being frustrated, and the practice of their religion will not be permitted under current German law, dealing with homeschooling, and also I find that they belong to a particular social group of homeschoolers who, for some reason, the government chooses to treat as a rebel organization, a parallel society, for reasons of its own.

As I stated above, this is not traditional German doctrine, this is Nazi doctrine, and it is, in this Court's mind, utterly repellant to everything that we believe in as Americans.

Religious freedom is in many ways the most basic freedom in this country, certainly most of the original refugees that came

to the United States, in colonial times, and in the early days of the republic, were religious refugees, many of them from Germany, such as the Amish and the Mennonites and many other groups and, therefore, I find that it is not just a question of enforcing our Constitution on a foreign country, but rather the rights that are being violated in this case are basic to humanity, they are basic human rights which no country has a right to violate, even a country that is in many ways a good country, such as Germany.

Therefore, I find that respondents do have a well-founded fear of persecution if they returned to Germany. Although the fines could be considered to be not severe enough to be persecution, it does appear that the fines are constantly increased to the point where they cannot be paid, and that would destroy the economic life of the Romeikes. The possibility that the children could be taken away from them, I find, to be persecution. I think most parents would rather serve two or three years in jail than to lose custody of their children during their minority. So the loss of custody is a very scary sanction, which is persecution. Then there is a possibility of jail as well, although it has not been imposed in too many cases, partly because people have fled the country. The very fact that some many of the homeschoolers have fled the country, after taking the legal system in Germany as far as they could, is certainly proof that this is no frivolous position. The Romeikes have uprooted themselves. They have not moved from a third world, they have

moved from a country just as wealthy as the United States, with a very nice welfare system, free medical care, many things that some people think we need in this country. But if Germany is not willing to let them follow their religion, not willing to let them raise their children, then the United States should serve as a place of refuge for the applicants.

There is nothing in the exercise of discretion that would bar asylum to the applicants. The biometrics have been checked and there are no problems. Therefore, the Court will grant asylum in the exercise of discretion to Mr. Romeike and, as derivatives, to his wife and children.

In the light of an asylum grant, I am not going to make any ruling on withholding of removal.

The Court's orders are as follows:

- (1) Asylum is granted to all respondents;
- (2) any order of removal that has been entered by the Department of Homeland Security is vacated;
- (3) these proceedings will be terminated.

LAWRENCE O. BURMAN
United States Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before
JUDGE LAWRENCE O. BURMAN, in the matter of:

UWE [REDACTED] ROMEIKE, [REDACTED]

HANNELORE ROMEIKE, [REDACTED]

[REDACTED] ROMEIKE, [REDACTED]

[REDACTED] [REDACTED] ROMEIKE, [REDACTED]

[REDACTED] [REDACTED] ROMEIKE, [REDACTED]

[REDACTED] [REDACTED] ROMEIKE, [REDACTED]

[REDACTED] [REDACTED] ROMEIKE, [REDACTED]

Memphis, Tennessee

is an accurate, verbatim transcript of the recording as provided by
the Executive Office for Immigration Review and that this is the
original transcript thereof for the file of the Executive Office
for Immigration Review.


Cindy B. Whitlock, Transcriber
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March 23, 2010
(completion date)

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Enclosure 3:
Board of Immigration Appeals Decision

Respectfully Submitted by HSLDA Action

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

Files: [REDACTED] - Memphis, TN

Date: MAY - 4 2012

In re: UWE [REDACTED] ROMEIKE

IN

APPEAL

ON BEHALF OF APPLICANTS: William Henry Humble, III, Esquire

AMICUS CURIAE FOR APPLICANTS: Lori Windham, Esquire¹

ON BEHALF OF DHS: Jerry A. Beatmann
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal

The Department of Homeland Security (DHS) appeals the Immigration Judge's January 26, 2010, decision granting the applicants asylum under section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158. The applicants and an amicus have filed briefs in opposition. The appeal will be sustained.

We review findings of fact, including the determination of credibility, under a clearly erroneous standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, including whether the parties have met the relevant burden of proof, and issues of discretion under a *de novo* standard. 8 C.F.R. § 1003.1(d)(3)(ii). The applicants' application was filed after May 11, 2005, and therefore is governed by the provisions of the REAL ID Act. *Matter of S-B-*, 24 I&N Dec. 42 (BIA 2006).

¹ An entry of appearance and amicus brief in support of the applicants were also filed by John Anthony Simmons, Sr., of the Family Research Council, although no formal request to appear as amicus was filed.

██████████ et al.

The applicants are a family, namely parents and five children, who are natives and citizens of Germany.² They seek asylum in or withholding of removal from the United States on the ground that they were and will be persecuted in Germany because the parents choose to homeschool their children in contravention of German law.

The facts related to the family's experiences in Germany are not disputed. The adult applicants began homeschooling their children in September 2006 primarily for religious reasons. Their decision was in knowing violation of the compulsory school attendance law.³ Several times in the following months, the applicants were warned verbally and in writing that they were in violation of the compulsory school attendance law. They were fined. Police forcibly escorted the children to school one day. The adult applicants were warned they could lose custody of their children if they continued to refuse to send their children to school. Legal proceedings resulted in the adult applicants being found guilty of violating the compulsory school attendance law. By the time the applicants left Germany, their fines had risen to approximately 7,000 Euros.

The Immigration Judge found the witnesses, including the adult applicants, credible. The Immigration Judge held that the applicants did not suffer past persecution, and thus are not entitled to a presumption of a well-founded fear of future persecution. The Immigration Judge also held the applicants did not establish a claim based on political opinion. The applicants did not appeal these aspects of the Immigration Judge's decision, so we deem those issues waived. The sole issue on appeal is whether they have shown a well-founded fear of persecution in the future on account of religion or membership in a particular social group.

The Board's adjudication of this matter does not involve an assessment of the merit of compulsory school attendance laws or the merit of homeschooling. The German government has the authority to require school attendance and enforce that requirement with reasonable penalties (see Exh. 2, Tab E at 120 (describing decision by European Court of Human Rights upholding German school attendance law)). The compulsory school attendance law at issue in this case is a law of general application. As such, its enforcement and any prosecution under it are not persecution unless the law is selectively enforced or one is punished more severely on account of a protected ground, so as to indicate that application of the law is a pretext for persecution. See *Stierba v. Holder*, 646 F.3d 964, 977-78 (6th Cir. 2011) (addressing generally applicable Estonian law invalidating Russian educational degrees); see also *Li v. Att'y Gen. of the U.S.*, 633 F.3d 136 (3d Cir. 2011); *Long v. Holder*, 620 F.3d 162 (2d Cir. 2010).

² The lead applicant is the husband (██████████), and the other applicants and derivative beneficiaries are his wife and children. Section 208(b)(3) of the Act, 8 U.S.C. § 1158(b)(3); 8 C.F.R. § 1208.3(a). We note that the asylum claims of the lead applicant's wife and children rest upon his claim. They have not filed their own claims for withholding of removal or for protection under the Convention Against Torture. We further note the lead applicant's wife and children are not entitled to assert a derivative claim for withholding of removal or CAT protection. See *Matter of A-K-*, 24 I&N Dec. 275, 279 (BIA 2007).

³ The text of the specific compulsory school attendance law(s) applicable to the applicants is not in the Record of Proceedings.

[REDACTED] et al.

The record does not show that the compulsory school attendance law is selectively applied to homeschoolers like the applicants. The applicants argue that pretext is seen in the fact that enforcement is not sought in the same way against truants, and that truants are allowed to be schooled at home or through correspondence school. The only evidence that truants are treated more leniently is two sentences in an affidavit by a German lawyer, Gabriele Eckermann, who represents homeschoolers. She states her opinion that truant children are treated different from homeschooled children because “[i]n some cases” such children are allowed to participate in correspondence school or other home-based learning (Exh. 2, p. 409, ¶14).⁴ This anecdotal evidence is not sufficient to establish that the compulsory school attendance law is applied selectively to homeschoolers and is not applied in the same way to truants. Even when truants are allowed to participate in distance learning, the program is administered by the school, not by the child’s parents (Tr. at 47-48). Truants are not allowed to be homeschooled in the manner the applicants homeschooled their children.

The fact that some parents receive exemptions from the compulsory school attendance law does not indicate that the law is selectively applied. The record indicates that parents whose occupations preclude them from establishing a firm residence may be exempted from the compulsory school attendance law (see Exh. 2, Tab H at 259). It is not clear whether such parents are permitted to homeschool their children or whether other options such as correspondence school or government-authorized tutors are employed. In any event, such exemptions simply recognize the impracticability of consistent public school attendance for some children.

The record also does not demonstrate that the burden of the compulsory school attendance law falls disproportionately on any religious minority, and specifically on the applicants’ practice of Christianity. The applicants have not shown that most homeschoolers share their religious beliefs, or that most parents with their religious beliefs choose to homeschool. Homeschoolers in Germany are not a homogenous group. Parents have varied reasons for wanting to homeschool. Not all such reasons are religious-based. German homeschoolers include parents, like the applicants, who think public schools are too liberal and antiauthoritarian, as well as parents who think public schools are too rigid and authoritarian (Exh. 2, Tab J at 397; Tr. at 58-59).

Nothing in the record suggests that the compulsory school attendance law was or will be enforced against the applicants because of their opposition to the law’s policy. Rather, the law is being enforced because they are violating it. There is no indication that officials are motivated by anything other than law enforcement. These factors reflect appropriate administration of the law, not persecution.

Nor does the record demonstrate that homeschoolers are more severely punished than others whose children do not comply with the compulsory school attendance law. The applicant’s expert witness testified that the punishment the applicants fear most, loss of custody of their children, is a

⁴ The expert witness’s similar testimony about the different treatment truants receive simply cites Ms. Eckermann and unnamed “other scholars” as the source for his knowledge (Tr. at 46-48).

██████████ et al.

penalty that is also applied to parents of truants (Tr. at 48).⁵ The record does not contain any specific examples of truancy cases to show that parents of truants received smaller fines compared to homeschooling parents.

The applicants also argue that the compulsory school attendance law is categorically pretextual because its purpose is socialization, not education. A judicial ruling in the record describes one of the goals of compulsory school attendance as “counteracting the development of religiously or philosophically motivated ‘parallel societies.’” (Exh. 2, Tab. H at 258). The ruling goes on to explain that, “[d]ialogue with such minorities is an enrichment for an open pluralistic society” so children can develop a “sense of experienced tolerance The presence of a broad spectrum of convictions in a classroom can sustainably develop the ability of all pupils in being tolerant and exercising the dialogue that is a basic requirement of [the] democratic decision-making process.” *Id.*; see also Exh. 2, Tab H at 271, 298.

These statements do not reflect a governmental objective to restrict or suppress religious or philosophical practice. See *Li v. Att’y Gen. of the U.S.*, *supra*, 633 F.3d at 144 (relying on the fact that no record evidence suggested law at issue was intended to silence or punish political dissent). The applicants are free to practice their religion and provide their children any religious or educational instruction they choose. The law simply does not permit them to do so to the exclusion of school attendance. One need not agree with this specific law or its method of enforcement to conclude that socialization of children is a legitimate, nonpretextual government objective that is not inherently hostile to or persecutory of those who advocate less intrusive means of socialization.

The Immigration Judge’s findings that “animus and vitriol” underlie the compulsory school attendance law and that the German government is enforcing a “Nazi era law against people that it purely seems to detest” are clearly erroneous (I.J. at 14). To the contrary, German judicial assessment of compulsory school attendance laws is that their purpose includes supporting tolerance and pluralism (Exh. 2, Tab H at 258, 271, 298). As previously discussed, the record does not show that the law is selectively enforced. The record does not contain the text or legislative history of the compulsory school law at issue to support the inflammatory suggestion that it is a Nazi-era law. This case does not involve a totalitarian government enforcing separation of children from parents for the purpose of ideological indoctrination.

It is clear that the applicants homeschool for religious reasons; however, for the foregoing reasons, they have not shown that their religion, their religious-based desire to homeschool, or their status as homeschoolers is a central reason that the compulsory school attendance law was or will be enforced against them. See section 208(b)(1)(B)(i) of the Act.

⁵ The witness testified that he is unaware of any parents of truants being criminally prosecuted as some homeschooling parents have been (Tr. at 48). That difference does not necessarily reflect selective enforcement or imposition of disparate punishments. It is possible that parents of truants lack a mens rea required for criminal prosecution, as truants have been described as children who skip school without their parents’ knowledge or consent. Without the text of the statute in the record, we cannot further assess this factor.

et al.

Even if the applicants had shown that the compulsory school attendance law was selectively enforced against them, or they were punished disproportionately, on account of their status as homeschoolers, we conclude that German homeschoolers are not a particular social group cognizable under the Act. German homeschoolers lack the social visibility required to constitute a particular social group. See *Matter of S-E-G-*, 24 I&N Dec. 579 (BIA 2008); *Matter of C-A-*, 23 I&N Dec. 951 (BIA 2006). The United States Court of Appeals for the Sixth Circuit has endorsed the social visibility requirement. See, e.g., *Kante v. Holder*, 634 F.3d 321 (6th Cir. 2011); *Al-Ghorbani v. Holder*, 585 F.3d 980, 994 (6th Cir. 2009).⁶ While the record contains some evidence of association and networking among homeschoolers, there is not sufficient evidence that society at large is generally aware of such association to consider homeschoolers a group.⁷ While the applicants have professed homeschooling to be fundamental to their conscience, the strength of their conviction does not make homeschoolers a social group perceived by others as such.

German homeschoolers also lack the particularity required to be a cognizable social group under the Act. See *Matter of S-E-G-*, *supra*, at 584-86. The group is amorphous. A family may choose to homeschool one child yet send another child to school, or may homeschool during certain school years and send the child to school other years. One becomes or ceases to be a member of the group by a mutable choice, viz. sending one's children to school or not. Additionally, in relation to the population of Germany, the estimated number of 500 homeschooling families is quite small (Exh. 2, Tab F at 121). Their reasons for homeschooling are disparate (Exh. 2, Tab J at 397; Tr. at 58-59). These factors render homeschoolers too indistinct a group to be a particular social group.

The statutory definition of "refugee" requires persecution on account of one of the grounds specified therein, and does not include all persons who suffer punishment for acts of conscience. *Foroglou v. INS*, 170 F.3d 68, 71 (1st Cir. 1999) (addressing claim of conscientious objector to Greek military service). Having not shown any pretext in the enforcement of the compulsory school attendance law against them, the applicants did not establish a well-founded fear of persecution or the higher threshold of a clear probability of persecution. Accordingly, we will sustain the DHS's appeal, and order the applicants' removal from the United States to Germany.

ORDER: The appeal is sustained.

FURTHER ORDER: The applicants are ordered removed from the United States to Germany.



FOR THE BOARD

⁶ The element of social visibility does not mean ocularly visible, as the Immigration Judge's decision suggests (I.J. at 15).

⁷ This is not to suggest that homeschoolers are not a particular social group in other countries (including the United States).

Enclosure 4:
Sixth Circuit Court of Appeals Decision

Respectfully Submitted by HSLDA Action

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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Filed: May 14, 2013

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Re: Case No. 12-3641, *Uwe Romeike, et al v. Eric Holder, Jr.*
Originating Case Nos. : XXXXXXXXXX

Dear Counsel,

The court today announced its decision in the above-styled case.

Enclosed is a copy of the court's opinion together with the judgment which has been entered in conformity with Rule 36, Federal Rules of Appellate Procedure.

Yours very truly,

Deborah S. Hunt, Clerk

Cathryn Lovely
Deputy Clerk

Enclosures

Mandate to issue.

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 13a0137p.06

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UWE ANDREAS JOSEF ROMEIKE, et al.,	}	No. 12-3641
<i>Petitioners,</i>		
v.		
ERIC H. HOLDER, JR.,	}	
<i>Respondent.</i>		

On Petition for Review of a Decision
of the Board of Immigration Appeals.
Nos. [REDACTED]

Argued: April 23, 2012

Decided and Filed: May 14, 2013

Before: GILMAN, ROGERS and SUTTON, Circuit Judges.

COUNSEL

ARGUED: Michael P. Farris, HOME SCHOOL LEGAL DEFENSE ASSOCIATION, Purcellville, Virginia, for Petitioners. Walter Bocchini, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondents. **ON BRIEF:** Michael P. Farris, James R. Mason III, HOME SCHOOL LEGAL DEFENSE ASSOCIATION, Purcellville, Virginia, for Petitioners. Margot L. Carter, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondents.

SUTTON, J., delivered the opinion of the court in which GILMAN and ROGERS, JJ., joined. ROGERS, J. (pg. 11), delivered a separate concurring opinion.

OPINION

SUTTON, Circuit Judge. Uwe and Hannelore Romeike have five children, ages twelve, eleven, nine, seven and two, at least at the time this dispute began. Rather than send their children to the local public schools, they would prefer to teach them at home,

largely for religious reasons. The powers that be refused to let them do so and prosecuted them for truancy when they disobeyed orders to return the children to school. Had the Romeikes lived in America at the time, they would have had a lot of legal authority to work with in countering the prosecution. *See Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972); *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 400–01 (1923).

But the Romeikes lived in Germany when this dispute began. When the Romeikes became fed up with Germany’s ban on homeschooling and when their prosecution for failure to follow the law led to increasingly burdensome fines, they came to this country with the hope of obtaining asylum. Congress might have written the immigration laws to grant a safe haven to people living elsewhere in the world who face government strictures that the United States Constitution prohibits. But it did not. The relevant legislation applies only to those who have a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42)(A). There is a difference between the persecution of a discrete group and the prosecution of those who violate a generally applicable law. As the Board of Immigration Appeals permissibly found, the German authorities have not singled out the Romeikes in particular or homeschoolers in general for persecution. As a result, we must deny the Romeikes’ petition for review and, with it, their applications for asylum.

I.

German law requires all children to attend public or state-approved private schools. The Romeikes feared that the public school curriculum would “influence [their children] against Christian values.” A.R. 478. When the parents chose to homeschool their children, the government imposed fines for each unexcused absence. When the fines did not bring the Romeikes in line, the police went to the Romeikes’ house and escorted the children to school. That strategy worked—once. The next time, four adults and seven children from the Romeikes’ homeschooling support group intervened, and the police, reluctant to use force, left the premises without the children.

The school district returned to a strategy of imposing fines rather than force. It prosecuted the Romeikes for, and a court found them guilty of, violating the compulsory-attendance law, leading to still more fines. The prosecution and the mounting fines were the last straws, and the family moved to the United States in 2008. At the time of their departure, they owed the government 7,000 euros or roughly \$9,000.

The Romeikes entered the United States through a visa waiver program. Uwe applied for asylum, and his wife and five children sought relief as derivative applicants. An immigration judge approved the applications after finding that the Romeikes had a well-founded fear of persecution based on their membership in a “particular social group”: homeschoolers. The Board of Immigration Appeals overturned the immigration judge’s decision. It explained that “[t]he record does not show that the compulsory school attendance law is selectively applied to homeschoolers like the applicants.” *Id.* at 5. It added that homeschoolers were not punished more severely than other parents whose children broke the law. It concluded by reasoning that, even if the German government had singled out people like the Romeikes, “homeschoolers” are not protected by the immigration laws because they “lack the social visibility” and “particularity required to be a cognizable social group.” *Id.* at 7.

II.

To obtain asylum, an individual must prove that he cannot return to his native country because of a “well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1101(a)(42)(A). In trying to meet this requirement, the Romeikes have not claimed on appeal that the German government has persecuted them in the past; they claim that the government will persecute them in the future if they return.

When it comes to showing that a foreign country’s enforcement of a law will persecute individuals on the basis of religion, membership in a social group or for that matter any other protected ground, there is an easy way and a hard way. The easy way is available when the foreign government enforces a law that persecutes on its face along one of these lines. Then there is the hard way—showing persecution through the

No. 12-3641

Romeike v. Holder

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enforcement of a generally applicable law. “[W]here the law that the native country seeks to enforce in its criminal prosecution is ‘generally applicable,’” that usually will be the antithesis of persecution. *Cruz-Samayoa v. Holder*, 607 F.3d 1145, 1151 (6th Cir. 2010). One normally does not think of government officials persecuting their citizens when they enforce a law that applies equally to everyone, including the allegedly persecuted group and the officials themselves. That is why, generally speaking, “[p]unishment for violation of a generally applicable criminal law is not persecution.” *Saleh v. U.S. Dep’t of Justice*, 962 F.2d 234, 239 (2d Cir. 1992). Enforcement of a neutral law usually is incompatible with persecution.

But usually is not the same as invariably. Even “[g]enerally applicable laws,” we have recognized, “can be the source of a petitioner’s persecution” in some cases. *Stserba v. Holder*, 646 F.3d 964, 977 (6th Cir. 2011). The government, for example, might selectively enforce a neutral law, prosecuting some individuals but not others based on a protected ground or punishing some more harshly than others for the same crime based on a protected ground. See *Cruz-Samayoa*, 607 F.3d at 1151; *Abedini v. INS*, 971 F.2d 188, 191 (9th Cir. 1992). Or the government might enact a seemingly neutral law that no one would feel compelled to break except on the basis of a protected ground, say a law banning certain clothing worn only by a discrete religious group or a law “outlaw[ing] the display of the American flag.” *Beskovic v. Gonzales*, 467 F.3d 223, 226 (2d Cir. 2006). In either instance, if the applicant otherwise meets the requirements for establishing persecution, the fact that the government purported to enforce a generally applicable law would not immunize it from a charge of persecution.

This, however, is the hard way to show persecution, and regrettably for the Romeikes they have not shown that Germany’s enforcement of its general school-attendance law amounts to persecution against them, whether on grounds of religion or membership in a recognized social group. Because the Board issued its own decision, as opposed to summarily affirming the immigration judge, we review its decision as the final agency determination. *Khalili v. Holder*, 557 F.3d 429, 435 (6th Cir. 2009). The Board’s “findings of fact are conclusive unless any reasonable adjudicator would be

compelled to conclude to the contrary.” 8 U.S.C. § 1252(b)(4)(B). And the Board’s “decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law.” *Id.* § 1252(b)(4)(C).

The Romeikes have not met these standards. Even assuming for the sake of argument that faith-based homeschoolers (or for that matter homeschoolers in general) are a cognizable social group, a matter we need not resolve, “[t]he record does not show that the compulsory school attendance law is selectively applied to homeschoolers like the applicants,” or that “homeschoolers are more severely punished than others whose children do not comply with the compulsory school attendance law.” A.R. 5. The petitioner’s key witness, Michael Donnelly, testified that *all* parents who do not send their children to school face consequences ranging from fines to jail time to loss of custody. Donnelly identified parents punished for homeschooling their children for religious *and* secular reasons as well as parents punished for truant children who received no schooling at all.

The parents of Melissa Buzekros, for example, decided that it would be “better for her to learn at home.” *Id.* at 272. Melissa’s siblings continued to attend public school, but Melissa struggled due to “high noise levels and cancelled classes,” prompting her parents to teach her at home. *Id.* at 587. In response, the government removed Melissa from her parents’ custody—not to persecute her parents but to enforce the country’s compulsory-attendance law. Other parents, too, have tried to homeschool their children for secular reasons, whether because they were “very unhappy” in public school, highly gifted or low performing, and they also were punished. *See id.* at 591–92 (affidavits of Tilman and Dagmar Neubronner) (explaining that they faced \$9,500 in fines after trying to homeschool their kids who were “very unhappy” in public school); *id.* at 657–58 (affidavit of Jorg Grosselumern) (explaining that “people who would like to practice homeschooling” because of “educational needs of the child,” such as being highly gifted or low performing, “do not dare to practice homeschooling actively because of the varied sanctions”).

The parents of “school skippers,” truant students who do not show up for school, face civil fines as well. If the parents fail to convince their children to go to school, the government places them in alternative learning programs or special schools for truants. This enforcement of the law has nothing to do with homeschooling, whether for faith-based or secular reasons. For better or worse, Germany punishes any and all parents who fail to comply with the school-attendance law, no matter the reasons they provide.

So far as the record shows, the only evidence of selective enforcement comes from a paragraph of an affidavit of a German lawyer, Gabrielle Eckermann. “In my experience,” Eckermann says, the “parents of truant children are treated differently than parents who homeschool,” as they often are “permitted to participate in home based distance learning or correspondence schools.” *Id.* at 913. But the Romeikes’ expert, Donnelly, acknowledged that the State runs the distance-learning programs for truant children, confirming that the State does not exempt them from a state-run education. And, as Donnelly also acknowledged, the State had ample reasons for distinguishing two groups of students: those not in school because their parents refuse to send them and those not in school in spite of their parents’ best efforts to make them go. In the case of the latter, the parents do not violate the law; the children do.

All of this suggests that what seems to be true on the face of this neutrally worded law is true. “There is no indication,” the Board permissibly found, that the German officials “are motivated by anything other than law enforcement. These factors reflect appropriate administration of the law, not persecution.” *Id.* at 5.

Not so quick, the Romeikes say: Germany has granted exemptions to *some* parents from the compulsory-attendance law, suggesting selective enforcement. Yet Germany granted those exemptions only in “extraordinary circumstances,” when for example the children are “simply incapable physically or mentally [of] going to school,” *id.* at 913, or when the parents’ occupations require them to “constantly change their abode,” *id.* at 761. On the rare occasions when the government grants an exemption, the government often sends teachers into the children’s homes, showing that the parents alone are not responsible for their children’s educations. Any exemptions thus are

granted as a last resort, and even then only when state-approved schooling would necessarily require the “separation of the children from their parents.” *Id.*

Also short of the mark are the Romeikes’ other arguments. They claim that the Board overstepped its bounds in rejecting three fact findings by the immigration judge: that Germany applied the law selectively to homeschoolers; that the passage of the 1938 compulsory-attendance law was driven by animus toward faith-based homeschoolers; and that the government disproportionately punished faith-based homeschoolers under the law. They argue that the Board set aside the immigration judge’s factual findings due to “deficiencies in the evidence” and “speculative” witness testimony, and, relying on *Tran v. Gonzales*, 447 F.3d 937, 943–44 (6th Cir. 2006), they claim that these justifications do not suffice. But the Board set aside these findings for a different reason—they were “clearly erroneous”—and *Tran* stands for no such proposition anyway. See *Nasser v. Holder*, 392 F. App’x 388, 391 (6th Cir. 2010). *Tran* identified three reasons why the Board had overturned the immigration judge’s factual findings—including evidentiary deficiencies and speculative testimony—and concluded that it was not clear whether the Board had used clear error or de novo review. *Tran*, 447 F.3d at 944. The decision does not foreclose the possibility that a lack of evidentiary support in the record or an unpersuasive witness might justify treating an immigration judge’s findings as clearly erroneous.

To the extent the Romeikes mean to argue that the Board applied the incorrect standard of review, that is wrong. The Board laid out the correct standard of review at the outset of its opinion—clear error, 8 C.F.R. § 1003.1(d)(3)—surveyed the factual record, often at great length, and concluded that the immigration judge’s findings were “clearly erroneous,” A.R. 6. In particular, the Board convincingly showed that the record simply did not support two “findings”: that Germany selectively applied the law to faith-based homeschoolers and disproportionately punished them for violations.

The third finding by the immigration judge—that “animus” and “vitriol” underlay enactment of the law—has even less support. For one, the judge never said that Germany enacted this law based on animus toward faith-based homeschoolers or

homeschoolers in general. Nothing in the record, indeed, suggests that such groups existed in 1938. For another, the record does not include the language of the original law, the history that led to its adoption or any contemporary understanding of what motivated it, if indeed that could be identified with respect to a law supported by different legislators with different perspectives. For still another reason, the only “finding” the immigration judge made—that the law showed an “intolerant” effort to “stamp out” “parallel societies” that might arise if parents could teach their children at home—sets sail at such a high level of generality as to add little to the case. Any compulsory-attendance law could be said to have this effect. But that does not prove that this law, then or now, targets faith-based homeschoolers in general or the Romeikes in particular. If, as the Romeikes claim, the law emerged from the Nazi era, that would understandably make anyone, including the Romeikes, skeptical of the policy underlying it. But such a history would not by itself doom the law. The claimants still must show that enforcement of the law amounts to persecution under the immigration laws. They have not done so.

To a similar end, the Romeikes complain that Germany’s compulsory-attendance law violates their fundamental rights and various international standards and thus constitutes persecution regardless of whether it is selectively enforced. Each argument shares an Achilles’ heel: Asylum provides refuge to individuals persecuted *on account of a protected ground*. 8 U.S.C. § 1101(a)(42)(A). The United States has not opened its doors to every victim of unfair treatment, even treatment that our laws do not allow. *Stserba*, 646 F.3d at 972. That the United States Constitution protects the rights of “parents and guardians to direct the upbringing and education of children under their control,” *Yoder*, 406 U.S. at 233; *see Pierce*, 268 U.S. at 534–35; *Meyer*, 262 U.S. at 400–01, does not mean that a contrary law in another country establishes persecution on religious or any other protected ground. And even if, as the Romeikes claim, several human-rights treaties joined by Germany give parents the right to make decisions about their children’s educations, *see, e.g.*, International Covenant on Civil and Political Rights art. 18(4), adopted Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171; Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc.

A/RES/217(III), art. 26(3) (Dec. 10, 1948), that by itself does not require the granting of an American asylum application.

Nor does *Perkovic v. INS*, 33 F.3d 615 (6th Cir. 1994), hold that a treaty violation on its own establishes persecution. Two Yugoslavian citizens of ethnic Albanian descent sought asylum after they were arrested and beaten for posting pro-Albanian propaganda and for participating in demonstrations in favor of Albanian civil rights. *Id.* at 616–17. Noting that the Board’s conclusion that the Yugoslavians had not been persecuted “was directly contrary . . . to the manifest intent of Congress in enacting the asylum law,” *id.* at 621, we held that the petitioners were refugees deserving of asylum. In doing so, we added in dicta that Yugoslavia’s treatment of the petitioners violated international law, *id.* at 622, but that observation was neither a necessary nor a sufficient predicate to their status as refugees. Just as a petitioner cannot obtain asylum merely by proving an American constitutional violation, a petitioner cannot obtain asylum merely by proving a treaty violation.

As then-Judge Alito explained, “the concept of persecution does not encompass all treatment that our society regards as unfair, unjust, or even unlawful or unconstitutional. If persecution were defined that expansively, a significant percentage of the world’s population would qualify for asylum in this country—and it seems most unlikely that Congress intended such a result.” *Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993); *see also Foroglou v. INS*, 170 F.3d 68, 72 (1st Cir. 1999) (“The asylum statute does not inflict on foreign governments the obligation to construct their own draft laws to conform to this nation’s own highly complex equal protection jurisprudence.”).

The question is not whether Germany’s policy violates the American Constitution, whether it violates the parameters of an international treaty or whether Germany’s law is a good idea. It is whether the Romeikes have established the prerequisites of an asylum claim—a well-founded fear of persecution on account of a protected ground. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992) (explaining that, even if the petitioner could prove he held a particular political opinion, he must also show that he would be persecuted “because of [his] political opinion” rather than

because he defied the guerilla army's general conscription policy); *Chen Zhou Chai v. Carroll*, 48 F.3d 1331, 1342 (4th Cir. 1995) ("Even if the applicant can characterize his failure to comply with the population control policy as a political opinion, the applicant must still demonstrate that the government's actions or threats against the applicant, even to the extent those actions or threats involve forced abortions or sterilizations, were taken for a reason other than to enforce the population control policy.").

The Romeikes have not met this burden. The German law does not on its face single out any protected group, and the Romeikes have not provided sufficient evidence to show that the law's application turns on prohibited classifications or animus based on any prohibited ground.

III.

For these reasons, we deny the Romeikes' petition.

CONCURRENCE

ROGERS, J., concurring. I join the majority opinion.

At one point in the petitioners' brief, they assert that "the sole question before this Court is whether Germany is violating binding norms of international law through its treatment of homeschoolers." Petitioners' Br. 37. Our role, however, is not that of an international court adjudicating Germany's obligations to other countries in respect of its own citizens. Instead we sit as a court of the United States, enforcing statutes that implement some of the international obligations of the United States to other countries in respect of asylum applicants. As explained by the majority opinion, those obligations are fully met in this case.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 12-3641

FILED
May 14, 2013
DEBORAH S. HUNT, Clerk

UWE [REDACTED] ROMEIKE, et al.,
Petitioners,

v.

ERIC H. HOLDER, JR., Attorney General,
Respondent.

Before: GILMAN, ROGERS, and SUTTON, Circuit Judges.

JUDGMENT

THIS MATTER came before the court upon the petition by Uwe [REDACTED] Romeike and his family for review of a decision by the Board of Immigration Appeals.

UPON FULL REVIEW of the record and the briefs and arguments of counsel,

IT IS ORDERED that the Romeikes' petition is DENIED.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

Enclosure 5:

Letter from members of Congress to Attorney General Holder
Dated May 24, 2013

Respectfully Submitted by HSLDA Action

MARLIN A. STUTZMAN
3RD DISTRICT, INDIANA

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT
SUBCOMMITTEE ON MONETARY POLICY
AND TRADE
ASSISTANT WHIP

Congress of the United States
House of Representatives
Washington, DC 20515

1728 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4436

1300 SOUTH HARRISON STREET, SUITE 3105
FT. WAYNE, IN 46802
(260) 424-3041

THE BOATHOUSE, SUITE D
700 PARK AVENUE
WINONA LAKE, IN 46590
(574) 269-1940

<http://stutzman.house.gov>

May 24, 2013

Attorney General Eric Holder
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Holder,

We respectfully ask that, as the chief law enforcement officer of a nation founded as a safe haven for those who seek liberty, you grant asylum to the Romeike family who fled to the United States in 2008 after suffering persecution from the German government as a result of their decision to homeschool their children.

A decision to deny the Romeikes the opportunity to educate their children freely is a decision to abandon our commitment to freedom. Doing so would put America alongside those countries that believe children belong to the community or state. A country founded on freedom should stand for the fact that they belong to their parents. As a “city on a hill,” this country has always embraced those who seek freedom. The United States ought to welcome families who suffer persecution for exercising their right to educate their children.

As you are aware, the courts have upheld a common-sense commitment to educational freedom. The Supreme Court’s decision, *Pierce v. Society of Sisters* (1925), held that the right of parents to “direct the education and upbringing” of their children is a fundamental right.

In Germany, the Romeike family experienced persecution for exercising this fundamental right and, on one occasion, officials forcibly removed Uwe and Hannalore’s children from their home. As the family faces multiple fines in their homeland, it is little wonder that they have sought refuge in the United States.

We believe that U.S. Immigration Judge Lawrence O. Burman reached the correct decision on January 26, 2010 when he granted the Romeike family asylum after finding that they had a well-founded fear of persecution because of their membership in the particular social group of “homeschoolers in Germany” and because Germany’s ban on homeschooling frustrated their religious convictions.

Under U.S. law, asylum should be granted to those experiencing persecution aimed at members of a “particular social group,” which possesses an “immutable” characteristic that

either cannot or should not be required to be changed. We agree with Judge Burman that German homeschoolers are a particular social group who are being persecuted by their government. Although parents can change their minds about homeschooling, no parent in a free nation should be forced by the state to make that decision.

It is worth noting that the United Nations Universal Declaration on Human Rights (UNDHR), which recognizes that parents have a “prior right” over the government to choose the kind of education their children will have. Other international covenants to which Germany is a party, including the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR), explicitly protect the rights of parents to direct their child’s education.

We ask that, pursuant to 8 U.S.C. § 1158(b)(1)(A), you exercise the authority given to you by Congress to grant asylum to the Romeike family. The legal standard in Section 1101(a) for eligibility for asylum is a “well-founded fear of future persecution on account of membership in a particular social group.” That is exactly what Judge Burman found in his 2010 opinion, upon reviewing the facts of the case and the German government’s official position on homeschooling.

The Romeikes fled to our country, seeking relief from high fines, removal of their children by armed police officers, and threats of prison and termination of their parental rights. If forced to return to Germany, they will certainly face renewed persecution. As Americans, we have an obligation to stand with those who seek freedom. The Romeike family should find a welcoming home in the United States.

Sincerely,

Mark Stutz

Michelle Bachmann

Alan Amodeo

Joseph Pitts

Janis Walecki

Bill Huizenga

David Webster

Steve Seibert

Dad PR

John Messer

Dog Lampe

Chris Stewart

Steve Dan

Jeff Gunn

Tim Hurler

Stewart

Ken Buchner

Mark

Jeff Miller

Kelly Kelly

Steve Stockman

David

Mike Lopez

Bill Doran

Vicky Hartzler

Lee

Mark

Enclosure 6:

Letter from Senator Marsha Blackburn to Secretary Mayorkas
Dated September 27, 2023

Respectfully Submitted by HSLDA Action

United States Senate

WASHINGTON, DC 20510

September 27, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas:

I write today to express my disappointment with this administration's misplaced priorities regarding the enforcement of our laws, as well as your blatant application of two standards of justice. As millions of illegal immigrants flood across our southern border and disappear into our country, your immigration authorities have chosen to punish a family who has built their lives in Tennessee within the legal parameters of our immigration system.

Since President Biden took office, there have been millions of illegal crossings at our southern border.¹ The number of crossings has skyrocketed because these migrants perceive the Biden administration's border policies to be weak and ineffective. Instead of changing course, you doubled down when you visited Texas, saying that you "have confidence in our model."² The model that you expressed such confidence in has consisted entirely of refusing to enforce the laws that protect our nation's sovereignty.

Instead, you have chosen to focus your time and resources on targeting the Romeike family, who legally immigrated to Morristown, Tennessee, over 15 years ago. The Romeikes, who escaped Germany after being punished simply for homeschooling their children, have been upstanding members of the Morristown community. Additionally, they have submitted to all mandatory check-ins with immigration agents required of them when the United States government granted them "indefinite deferred action status" in 2013.³ I am sure you can imagine their surprise when, during one of these routine check-ins that they have faithfully attended, they were informed that they had only four weeks to apply for German passports in advance of their deportation—with no further explanation.

This enforcement action highlights the two standards of justice that have been a constant theme of President Biden's first two and a half years in office. You are targeting a family who fled Germany in search of basic parental rights and has legally resided in the United States for years.

¹ U.S. CUSTOMS AND BORDER PROTECTION, CBP SOUTHWEST LAND BORDER ENCOUNTERS, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² Alicia A. Caldwell, *What's Behind the Latest Migrant Surge? For Many, Impatience With a Government App*, WALL ST. J (Sept. 24, 2023), https://www.wsj.com/us-news/migrants-texas-us-asylum-laws-3ff360df?st=33ehhkny8grw902&reflink=article_email_share.

³ Jason Hardy, *Department of Homeland Security Grants German Family Indefinite Asylum*, DESERETNEWS (March 7, 2014), <https://www.deseret.com/2014/3/7/20536846/departments-of-homeland-security-grants-german-family-indefinite-asylum>.

Simultaneously, you have allowed millions of illegal immigrants—some of whom have been identified as terrorists—to enter the country with abandon.

I urge this administration to reverse course and allow the Romeike family to continue their lives in Morristown, Tennessee. My staff and I are available should you need any additional information.

Thank you for your attention to this urgent matter.

Sincerely,


Marsha Blackburn
United States Senator

Enclosure 7:

Letter from Members of Congress to Attorney General Garland
and Secretary Mayorkas Dated October 8, 2023

Respectfully Submitted by HSLDA Action



Congress of the United States
House of Representatives
Washington, DC 20515-0906

October 3, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Attorney General Garland and Secretary Mayorkas:

Thirteen years ago, the Romeike family made national headlines when they were granted asylum in the United States after fleeing persecution in Germany for homeschooling their children. In 2013, the Obama Administration granted the Romeikes “indefinitely deferred action status,” allowing them to live and work in the United States. Now, news reports indicate that the Biden Administration is likely to deport this refugee family. This urgent matter is further reflected by the Order of Supervision provided by U.S. Immigration and Customs Enforcement to alien number A87368600, Uwe Romeike, who is to report with his passport for deportation on October 11, 2023.

This decision to potentially deport the Romeike family is as inexplicable as it is unconscionable.

By all accounts, the Romeikes are model citizens. Since their arrival to the United States, the members of the Romeike family have successfully assimilated into their local community and the fabric of American life. Uwe, the father, works at a Christian university. The youngest two children were born and raised here. The older Romeike children have even gotten married and have had their own children.

The Romeike family has lived peacefully and in our country for over a decade. To force this refugee family to suddenly return to Germany, with a government that once forcibly removed their children from their home simply for observing their deeply-held religious beliefs, is immoral and indefensible. Sending this family back to face certain persecution once again goes against everything we stand for as Americans. Should the Romeike family be required to return to Germany, the government will not recognize their children’s education and they may be unable to find work. Further, the German government will very likely seek to remove the minor children of the Romeike family — American citizens — from the custody of their parents, as well as penalize members of the Romeike family with jail time and punitive fines. Not only would they face discrimination, but two of the Romeike family members born here have citizenship and others have married Americans. To separate the family would be unwarranted.

The Honorable Merrick B. Garland
The Honorable Alejandro Mayorkas
October 3, 2023
Page Two

Under federal law, you possess the legal authority to grant asylum to the Romeike family. We, the undersigned members of Congress, respectfully ask that you use this power given to you by Congress to grant the Romeike family asylum.

Sincerely,



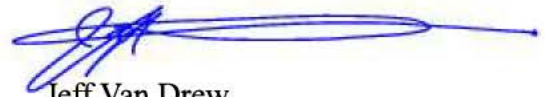
Diana Harshbarger
Member of Congress



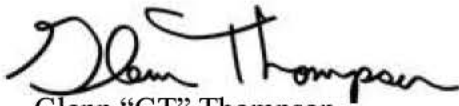
Mike Johnson
Member of Congress



Mary Miller
Member of Congress



Jeff Van Drew
Member of Congress



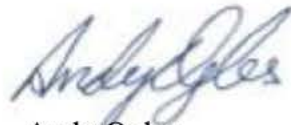
Glenn "GT" Thompson
Member of Congress



Josh Brecheen
Member of Congress



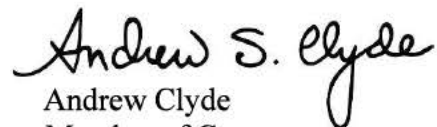
Tim Burchett
Member of Congress



Andy Ogles
Member of Congress



Chuck Fleischmann
Member of Congress



Andrew Clyde
Member of Congress



Bill Posey
Member of Congress



Michael Guest
Member of Congress

Randy Weber
Member of Congress

Daniel Webster
Member of Congress

John Moolenaar
Member of Congress

Chris Smith
Member of Congress

Barry Moore
Member of Congress

Rudy Yakym
Member of Congress

H. Morgan Griffith
Member of Congress

Tim Walberg
Member of Congress

Barry Loudermilk
Member of Congress

Robert B. Aderholt
Member of Congress

Eric A. Rick Crawford
Member of Congress

Bruce Westerman
Member of Congress

Richard Hudson
Member of Congress

John Rose
Member of Congress



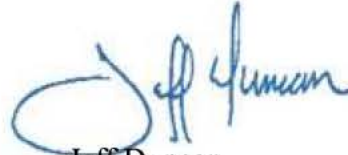
Mark Green, M.D.
Member of Congress



Mike Ezell
Member of Congress



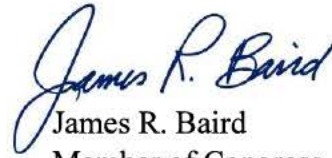
David Kustoff
Member of Congress



Jeff Duncan
Member of Congress



Scott DesJarlais, M.D.
Member of Congress



James R. Baird
Member of Congress

Enclosure 8:
Written Order of Supervision Dated June 27, 2021
Redacted due to personal information

Respectfully Submitted by HSLDA Action

Enclosure 9:
Letter from Romeike family to Chairman Jim Jordan

Respectfully Submitted by HSLDA Action

April 17, 2024

The Honorable Jim Jordan
Chairman
House Judiciary Committee
2056 Rayburn House Office Building
Washington, D.C. 20515

RE: Formal request for relief from the U.S. Congress

Dear Chairman Jordan:

We have been told that House Judiciary Committee rules for the consideration of a private bill require us to specifically reach out to you in writing to express our hope to receive relief from the U.S. Congress. We do so now, in fear and trepidation, but also in humble faith, that the promise of freedom in America would be something that could be extended to our family.

This promise of freedom was first spelled out in 1620 in the Mayflower Compact, then in 1776 in the Declaration of Independence, then more clearly declared in 1787 when the U.S. Constitution was written, and subsequently ratified along with the Bill of Rights.

This promise of freedom has been built by great Americans through speeches like Abraham Lincoln's Speech at Gettysburg in 1863. It has been built by great Americans through writings like Reverend Martin Luther King, Jr.'s Letter from Birmingham Jail in 1963. This promise of freedom has been built by Presidential Executive Action, like Abraham Lincoln's Emancipation Proclamation in 1863. It has been built by decisions by the U.S. Supreme Court, such as *Brown v. Board of Education* in 1954. This promise of freedom has been bought with the blood of countless Americans, such as the G.I.s who delivered Europe and our home country of Germany from the evil of Hitler and Nazism during World War II. This promise of freedom has been preserved through America's moral, military, and economic might, such as President Ronald Reagan's triumph over the Soviet Union, which delivered so much of the world – including East Germany – from Communism. And this promise of freedom beckons today to families like ours, calling us to leave our homeland to come in search of freedom to the United States of America. The freedom to live out the dictates of our conscience as God would have us. The freedom to raise our children in accordance with our faith and our values. And the freedom to be able to homeschool our children in peace.

Because of the mercy and goodness of the United States of America, we have been able to live as guests in the United States since 2008. We have homeschooled our children. We have seen our children marry and have seen our children's children. We are so thankful.

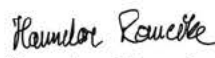
And now, we humbly seek to remain in this great country. We respectfully ask that you allow the House Judiciary Committee to consider H.R. 5423, a bill introduced by our friend, Representative Diana Harshbarger.

We pray that God would richly bless you and your family, the United States Congress, and this great country, the United States of America.

Very truly yours,



Uwe Romeike



Hannelore Romeike



Daniel Romeike



Lydia Romeike Bates



Josua Romeike



Christian Romeike



Damaris Romeike