

# The Development of the Legal Situation of Santo Daime in Germany

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The following paper provides a brief history of the Santo Daime religion in Germany including the constitution of a German Santo Daime church. The background of some of the first and current protagonists of Santo Daime in Germany is briefly illuminated. Following this will be a presentation of major legal cases in which Daimistas in Germany were involved in the past, as well as present day legal activities of this religious minority. By elaborating on the sometimes dramatic biographical consequences that the sacramental use of ayahuasca (which is called “Daime” within this tradition) had for the protagonists, we want to raise awareness for the difficult situation that Daimistas face in Europe and particularly in Germany.

The paper is based on a collection of field data and firsthand observation which has been discussed in its relevance within the team of authors. Both of the authors speak from the position of personal and cultural experience with the topics presented hereafter. Silvio Rohde is an independent researcher of entheogenic religion with a diploma in Religious Studies. He is concerned with the development of Santo Daime in Europe and Germany since 1995 and wrote his Masters thesis (Rohde, 2001) about the criminalization of “Ayahuasca Religions.” Hajo Sander is one of the main representatives of Santo Daime in Germany. He provided crucial firsthand information to many of the lawsuits discussed in this paper.

## **The Beginnings of the Santo Daime in Germany and its First References in Public Discourse: The years 1989 – 1998 (First Period)**

At least since the beginning of the 1990s there has been a rising interest in ayahuasca among a religiously experimental segment of the German population, as is true in many other European countries as well. Not much was known about ayahuasca and in particular about Santo Daime before that time and even less published in written form in German. What existed were of course ethnographic accounts on indigenous ayahuasca use for example by Koch-Grünberg (1909) and the well known monograph “*Banisteria caapi*” by the famous toxicologist Louis Lewin (1929). However, the ayahuasca religions were not mentioned to our knowledge in any original German publication until 1985, when an ethnological-literary report was published by the German litterateur Hubert Fichte (1985) on his encounter with the *Barquinha* in Rio Branco, Brazil. In 1989, an article appeared in the German New Age Magazine “*Esotera*” written by Ulrich Meyerratken (1989), which describes his encounter with the *União do Vegetal* in Sao Paulo. Another article by this author (Meyerratken, 1992) seems to be the first article published explicitly about the Santo Daime religion in Germany.

In 1990 the first Germans that we know of made their way to Mapiá (Amazonas), headquarters of the *CEFLURIS*<sup>1</sup> branch of the Santo Daime in the north of Brazil. Further, it is reported by informants from the Santo Daime field that this was the year when Padrinho<sup>2</sup> Valdete Mota de Melo from Mapiá and Padrinho Paulo Roberto Souza e Silva from Rio de Janeiro visited Germany for the first time. To give some landmarks on the development of Santo Daime in other parts of Europe: this was just shortly after the first official *comitiva*<sup>3</sup> from CEFLURIS visited Spain during the Semana Santa (Easter Holy Week) in 1989, which by the way was the first official visit of Santo Daime church leaders in Europe ever (Groisman, 2000). In the Netherlands the first church which was founded, *Céu dos Ventos* in The Hague, began to work in 1992.

Yet in Germany it was not before 1992, when the already mentioned article in a popular Esoteric Magazine (*Esotera*) attracted a lot of interest. In the aftermath of this article religious ceremonies were held which were open to a wide scale of participants in different parts and social strata of Germany. Starting in 1993 there was also a short-lasting approach of offering Santo Daime rituals as a kind of self-encounter group (Balzer, 1999), without acknowledging properly the cultural context of Santo Daime as a religious cult of the *Rainha da Floresta* and *Juramidam*, based on a Christian belief system. This approach of fitting Santo Daime into the context of New Age workshops is viewed very critically today by most members of the German Santo Daime. The phenomenon which today is known as New Age religion – although it may have its own qualities – is at least in part based on the supply of commercialized spiritual services and events, which are derived from genuine religious traditions but often are modified so that they can be better consumed by Western religious seekers. The ceremonies we talk about here were advertised with catchphrases like: “Ayahuasca – the legendary shamanic ritual of the Amazon,” and XXL-slogans: “from all shamanic rituals to alter consciousness and to burst open the frontiers of the Ego, the ayahuasca-ritual being practised for thousands of years in the Amazon is regarded as the most important, most powerful and most legendary” (Balzer, 2005). Many Daimistas (Santo Daime followers or members) hold the belief that people are guided to this religion by their Higher Self. Advertising and talking people into participation is strongly rejected by the Santo Daime church. The ceremonies are quite demanding; discipline and firmness are necessary to follow the ritual and therefore it does not lend itself to marketing slogans that may raise false expectations and exploit cultural traits of an established religion like Santo Daime for commercial aims. Raimundo Irineu Serra, the founder of the Santo Daime tradition, also gave the advice to never actively invite people to Santo Daime. Hence the church holds the point of view that if people wish to participate, they should feel a heartfelt interest in getting to know the Santo Daime and search for contact by themselves.

These modified<sup>4</sup> Santo Daime ceremonies conducted in the periphery of New Age entrepreneur Frank Natale also gave rise to the first interventions of authorities in the affairs of the German Santo Daime. A participant of the ceremonies in 1994 gave a sample of his urine to a laboratory in Stuttgart. The laboratory found a high dose of amphetamine in the sample. Apart from the fact that no serious Daimista would ever mix the sacrament with a synthetic compound, the combination of these two sub-

stances potentially could be dangerous, because the use of MAO-inhibitors together with serotonergic substances like amphetamines is most probably contraindicated (Callaway, 1999, p. 260). Obviously, this person was trying to denigrate the church; later it became evident that he had personal reasons because his wife was finishing the relationship with him after attending the ceremony and he blamed the church. The public prosecutor inquired into this case, but the legal process was soon closed due to the fact that the investigations remained without any results. However, the originator of the accusations offered his story to the renowned German newspaper magazine "Der Spiegel" (Anonymus, 1994), which made up a story about Santo Daime ceremonies in Germany in March 1994. This article, which was badly researched, pejorative, and had a strong bias against Santo Daime religion and the New Age movement in general (incorrectly conflating the two), was not aware of the entheogenic dimensions of ayahuasca use at all and used a vulgar and manipulative terminology that called the Santo Daime tea a "strange swill," even though it is considered a *holy sacrament* within this church and a *sacred drink* in many indigenous cultures (Labate & Araujo, 2004; Luna, 1986; Saéz, in this volume). Moreover, it was naively suspected that ayahuasca used in the rituals was indeed contaminated by a synthetic drug.

In spite of the bad press, Santo Daime ceremonies continued to take place on German soil and within a short period of time several churches were founded. In Hamburg a church called *Céu de São Miguel* started its regular works in 1994. In 1997 the church was reorganized and from then on called *Céu da Santa Alegria*. This community consisted of approximately 20 members and was frequently visited by Brazilian Daimistas, and got support from the *Céu da Santa Maria* church in Amsterdam. In Hannover, a small group called *Céu do Amor Divino* started practising Santo Daime in 1995. In the same year the *Céu dos Anjos* was founded in Dusseldorf and in 1996 it moved to the city of Münster. In 1996 the official summer festival was celebrated for the first time completely in a little Bavarian village. In the area around Stuttgart three groups practiced the path of Santo Daime. One was led by a Brazilian, who became acquainted with Santo Daime in the aforementioned rituals with Paulo Roberto and Frank Natale. At the end of 1994 he travelled to Brazil, where he met Padrinho Jonas from the *Céu do Midam* church.<sup>5</sup> In March 1995 this encounter led to the foundation of *Céu da Capela*. In the first months *Céu da Capela* was growing very fast and soon had around 30 members. In 1996 Padrinho Jonas visited his affiliated church and conducted a *fardamento*<sup>6</sup> where 17 people were initiated into the church. The other two groups practising in the area around Stuttgart were the *Céu do Santo Cruzeiro*, affiliated with Mapiá, which has existed since 1995, and another very small group which had even practised since the beginning of the 1990s. In nearby Munich there was a brotherhood of Santo Daime called *Céu do Beija Flor* which was one of the oldest in Germany. When Padrinho Alfredo, the leader of CEFLURIS from Brazil, visited South Germany in May 1996 around 150 people attended the ceremonies.

At the end of 1996, Padrinho Lucio Mortimer, who was the patron of CEFLURIS for the German churches of Santo Daime, was on his fifth tour visiting the practising groups in Germany. At this time many of the local Daimistas had already been to Brazil to visit the churches over there. But this journey turned out to be a very diffi-

cult time for Lucio, because he did not find, like he may have expected, flowering groups that developed together in social harmony. Instead he found a lot of internal discord and conflicts among the small congregations and especially on an intergroup level among the leaders of the different churches. Due to its eclectic structure, Santo Daime attracts people with a lot of different mindsets and varying spiritual backgrounds, who then suddenly find themselves “under the roof” of the same church. The German church was formed by people with roots as different as Catholicism or Protestantism, reinvented Indian sweat lodge tribal traditions, as well as by people referring to Buddha or Osho in their spiritual practices. Within the groups persons who could be called “hippies” met with rather straight persons like policemen, for example. There were scientists and psychologists as well as members with professions like craftsmen and teachers. And of course within these groups you could also see people who had had a focus on the entheogenic or recreational use of mind-altering plants even before they got to know the Santo Daime church. Additionally the *trabalhos*<sup>7</sup> were frequently attended by people whose motivation was mainly curiosity or an unspecific search for release or help for sufferings in their life.

### **Typical Quests and Attitudes within the Forming Santo Daime Communities**

This potpourri of philosophical and generally human orientation came together as people were continuously elaborating their specific concepts and opinions on this new mysterious religion which had attracted them for one or another reason. In spite of this divergence these persons succeeded in joining and experienced the concerted singing of the large collection of hymns which are cultivated within the Santo Daime religion and more than that, these different people shared collectively mystical experiences without creating conflictuous borders about the “appropriate” mental concepts, ideologies or religious dogmas. From the viewpoint of the Santo Daime religion, the refinement of perception which can be achieved with the church’s sacrament, the Daime, has the potential to enable an epiphany of the underlying mystic structure of the mythic motives of Christianity, so that a dimension of immediate revelatory truth can be experienced. The Santo Daime is a religion that merges Catholic content with distinct Afro-Brazilian and spiritistic elements. But from the historical beginning within the German churches there were Daimistas who sought for and acknowledged the pre-Christian, the pagan roots of Christianity which had been overlayed and suppressed during the historical expansion of the Christian church in Europe. This continuing search for an expanded, non-Christian heritage is also reflected by the spiritual and poetic motives in some of the hymns received by German Daimistas.<sup>8</sup>

Many of the participants in the *trabalhos* – as is the case with a large part of German society nowadays – were and are endowed with a rather critically inclined approach towards Christianity and its ambiguous history of oppression and psychological traumatization. Some participants of Santo Daime ceremonies acknowledged the power of this religious tradition to provide a ritual setting that facilitates the healing

of traumas caused by rigid structures, authoritarianism, and bigotry experienced in the Catholic or Protestant churches.

### **The End of the First Episode (1989-1998): Failed Unification**

This blended tribe of people with divergent social and religious backgrounds made several efforts to unite as an officially recognised association (respectively church) under German Law so that it would become possible to initiate a legalization process and escape the constantly present fact of the official criminalization of their religion. The name of this united German church was supposed to be “*Floresta e seus Misterios*” and was intended to be registered in 1997. But Padrinho Lucio on his last journey to Germany was not able to calm the conflicts among the religious community. In spite of the frequent affirmation of values like unity and humbleness in the tradition of the Santo Daime and as it frequently occurs in the religious domain, disputes emerged among church leaders which made a consensus between the churches impossible. On the other hand, one should make allowance for the fact that a decided spiritual exploration of the self like it is requested in the path of the Santo Daime often comes along with an emergence of what has been called the shadow (in Jungian psychology).

The foundation of a united German Santo Daime church in 1997 failed. Many of the Daimistas involved in this first episode of Santo Daime in Germany did not appear again on the scene of this religion until recently. Others returned after they had retired for some years from the religion. Padrinho Lucio left Germany knowing that he had to work even harder in his mission of planting the seeds of a German Santo Daime church, should it ever flourish. But Lucio did not come back. He got very sick in 1999 and died in 2002.

### **Episode 2: A New Beginning of Santo Daime in Germany. The Years 1999 - 2008**

Within a period of approximately two years after these events, a new generation of Daimistas matured. Some of the earlier activists totally gave up the approach of creating a church that spans all of Germany and went on practising only in privacy without connecting to their fellow believers. Another part of the German Daimistas that was interested in the creation of a community, like it had been formerly idealized by Padrinho Sebastião in Brazil, developed their dream of finding a physical place where they would be able to live together and celebrate the whole of the *calendário*.<sup>9</sup> The celebration of this *calendário* is seen as a very important element in the doctrine of the church. It means that all members all over the planet are united and connected in what is called the *Astral plane* – an expression used to denominate a spiritual realm within the Santo Daime tradition<sup>10</sup> - while singing the same hymns, thereby intensifying the force of their prayers. In order to be able to facilitate this, a new group of Daimistas originating from several churches in 1998 moved into an old mansion called “Schloss Gutenberg” in the small Thuringian village Bad Berka near the town of Weimar which was offered to them for free.

In spite of grievances like no electricity or water in this house, this community of spiritual enthusiasts called *Céu dos Anjos* grew fast. Guests from Brazil arrived as well as many helpers and friends, who spent their holidays or lent their hands to the manifold work that had to be done in the house. Thus the place developed into something like a central church of the German Santo Daime.<sup>11</sup> Right from the beginning the community was endeavoured to act in a free and open way towards the neighbouring community, therefore the group decided that no secrecy should be used to protect the religious use of its sacrament. The Santo Daime tea was imported with official customs documents and all announcements for rituals were consciously made without conspirative measures. Finally, the members of this community decided to reunite the German churches and to initiate the legalization process once again. This effort was scheduled for Saint Michael's Day at the end of September of 1999. A prominent *comitiva* of Brazilian Daimistas, among them José Mota de Melo, a son of Padrinho Sebastião, was invited to celebrate this important event. After they arrived, the Brazilian Daimistas already felt a little bit concerned because they knew that a police action against a Santo Daime church and a *núcleo* (nucleus) of the União do Vegetal (UDV, another Brazilian ayahuasca religion) had already taken place in the U.S.A. on May 19, 1999.

In the morning of the 25th of September in 1999 a mobile taskforce consisting of nearly 100 heavily armed policemen stormed two huts on a camping site where the *comitiva* from Brazil was staying. The police had already installed civil agents at the counter of this camping site one day before the raid. In the raid, police segments from a special federal taskforce (called *Sondereinsatzkommando* - SEK - in German) were involved, as well as a taskforce from the State Office of Criminal Investigation (Landeskriminalamt, LKA). Both police groups acted in extremely different style. For example, when the officer from the LKA came for an inspection to the mansion where many Daimistas from all over Germany were staying, he did his job in a gentle and appropriate way. But soon the federal SEK arrived in complete black masked battle uniforms and armed with machine guns. Everybody, including the LKA officer, had to lie down on the floor immediately. Two of the then victims claim that even a three year old infant was threatened by the SEK with a machine pistol. The traumatizing impact of this fierce action for those involved can be easily imagined. The Brazilian guests – speaking Portuguese only – were handcuffed and due to the absence of any translator without further information of what was going on they were brought to the police station. When the German hosts arrived on the camping site they were arrested too. In the evening of the same day all were released but the police retained the passports to make sure that nobody would leave the country. Only after the Brazilian embassy in Berlin was informed and after the embassy immediately sent out a protest letter, the passports were handed out again.

In their interrogation by the police the members of the community openly put on record all details concerning their religious practice. As with other religious communities, truthfulness is one of the guiding principles of Santo Daime and these Daimistas took this principle seriously. Knowing that this could easily be viewed as a breach of taboo, it was openly admitted that adolescents participated in the ceremonies and in some cases also had drunk a symbolic dose of the tea. What at a first glance might appear intolerable for outsiders is put into perspective by the fact that in every reli-

religious community it is natural that children and adolescents are educated with the values of their parents and participate in communal activities. In Brazil this was recognized by the official governmental investigations into ayahuasca religions when the effects of the regular use of the tea were extensively and repeatedly examined. In 2004 the Brazilian National Anti-Drug Council (CONAD) conferred all responsibility for the use of ayahuasca by minors and pregnant women (which in Brazil was formerly regulated by the state) to the private decisions of the parents (CONAD, 2004). Although this is, even in Brazil, a controversial topic, over there it was solved within the framework of consent on the protection of minorities. Within the larger quest for legal recognition in Europe this question is expected to be a most complicated one by the Daimistas themselves, since they are well aware of the multiple layers of concern and prejudice associated with the questions of children growing up within committed religious minorities. Since scientific discourse did and does play an important role within the legalization process worldwide, present and future studies on the effects of ayahuasca on minors have to be taken into account to evaluate if such a tolerant approach is conceivable in European countries as well (Da Silveira et al., 2005).

Even for outsiders it holds true that the operation of the federal special taskforce (SEK) in Bad Berka as narrated above was executed in a way that might have been reasonable or appropriate if they had been combating against a terrorist organization or a mafia group. The Daimistas concerned do not doubt that it is the duty of the police to inquire into presumed violations of the law. Since a number of members of the Bad Berka group have suffered continuing psychological and social damage from the police actions portrayed above, they find it natural to ask if this was an appropriate and in legal terms *proportionate* way of dealing with a peaceful religious group that is guided by Christian principles and values and which has never been known for any form of violence. Obviously, either the police did not do any research on Santo Daime before the raid or they consciously ignored the facts to make a cautionary example for the public as to how entheogenic religions will be treated. This presumably was one of the biggest raids against a religious community in Germany since the founding of the Federal Republic of Germany. Additionally, 62 litres of Santo Daime tea were confiscated. Later it became known that the incident that gave cause for the raid was a particular person who had enjoyed the hospitality of the group in Thuringia quite often and apparently suffered from a mental illness. This person, however, had never drunk the Santo Daime tea himself. Yet he was providing the police with misleading information about an “evil drug sect” operating there.<sup>12</sup>

But these events in Germany were only the prelude of a raid on an international scale against the church of Santo Daime. The next target was the altar of the Santo Daime in Amsterdam two weeks after the German raids. Here the law enforcement officials broke into a service of the church while it was in progress. And finally, French Daimistas were arrested approximately two months after the raid in Germany in November 1999.<sup>13</sup> In the German police raid of 1999 the police had confiscated a great number of papers and documents. Santo Daime churches attach greatest importance to the transparency of their affairs; all information on the distribution of the sacrament and also financial matters had been documented in detail. So in the time thereafter the police used this data to investigate several German church leaders. So

on the 17<sup>th</sup> of May 2000 the police again took action against members of the Santo Daime religion in Germany.<sup>14</sup> In the cities of Hannover, Stuttgart, and Berlin three members of the church were visited by the police in the morning and had their houses searched. Only small amounts of the Santo Daime tea were confiscated but the group leaders found themselves accused of drug trafficking. In Stuttgart, for example, the leader of the *Céu da Capela* was found with 2.5 litres of Santo Daime. Because of this, he had to fear losing his job as a physician; as he was of Brazilian origin he also feared being forced to leave Germany. The court imposed the penalty on him to declare that he would never again conduct ceremonies with Santo Daime and additionally, a fine of 6,750 Euros had to be paid. Facing the potential destruction of his social and economic life, he decided to completely draw back from Santo Daime.

In another city that was affected by the house searches, after the interrogation of the charged people, a press statement was released that distorted the statements made by the Daimistas. Even the names of the accused persons leaked out to the press and one newspaper used them in their headline. One reporter from the biggest German yellow press newspaper "BILD" said he had not received a press statement so detailed for years. The consequence of this was that reporters stayed for days in front of the house of those Daimistas, who because of this only dared to enter their house masked. The accused people reported that in addition to this, the confiscated computers were totally contaminated with viruses after they were returned from the police. This legal case was simply closed after some time, but the Daimistas involved in the lawsuit also gave up totally on practising their faith fearing further stigmatization. In this respect, the police's strategy seemed to turn out effective. The third raid on this day in Hannover left behind a socially respected and hard working man who today still feels traumatized from the treatment by the police. The police used bullyboy tactics on him; for example, he was told by the police that they would have to inform his employer (he was working in the field of healthcare) on his activities. At no time during this whole process of investigation or raids did the police consider the religious background of his use of the Santo Daime tea, while all of the time they were reducing and confusing his behaviours with illicit drug trafficking. He too accepted a fine of 1,750 Euros, fearing heavier consequences for his life if he had not accepted. Shortly after these busts, some newspapers came up with some very sensationalistic coverage.<sup>15</sup> In their reports they drew the image of a horror "drug sect" which gives addictive narcotics to children, accompanied by the usual, scientifically unverified myths and stereotypes, which are mechanically recited in the media so often, stating for example that ayahuasca allegedly causes schizoid psychosis, etc. Some months after these raids there was a fourth investigation by the police in the city of Hamburg. The leader of the local church of Santo Daime was also accused of drug trafficking. The police closed this case after some time without further explanations.

In 1999 there were around 100 initiated German members (*fardados*) and around 100 regular visitors with more or less close connections to the church, who participated in the works of Santo Daime. The consequences of the raids for the German church were that a lot of members and friends of the Santo Daime religion abandoned their connection to the church, fearing to lose their jobs or other penalties like withdrawal of the driving licence, etc. that could arise from practicing this reli-

gion (the latter is a rather common police practice in Germany in the case of *Cannabis* users although it is situated in a legal “gray area”; this means that it does not have a legal basis). Those left had problems in communicating, knowing of course that the police were most likely wiretapping their telephones and email traffic. Relatively large groups like the *Céu da Capela* closed their spiritual work completely. The few remaining believers found themselves in the underground. And it did not seem farfetched that some of them compared their situation at this time with historically long ago situations of the early Christians, who were constantly threatened by the dominating Roman culture around them.

In 2001 the Daimistas from the community in Bad Berka decided to formally go into exile to the Netherlands, driven by the prosecution of their faith by authorities of the federal republic of Germany whose strategies had never been discussed and decided openly by any elected representative or unprejudiced and reasonably informed legal authority. Some members had continued in a small circle to sing the *calendário* for more than a year in Bad Berka. But as a consequence of the police raid they had become heavily stigmatized by the local villagers. Right-winged youths attacked their cars and destroyed parts of the house frequently. In their view, the “drug sect” (how they were called in newspapers and local radio) was a kind of “fair game” they could harass freely without moral inhibitions. Neither did the police prosecute any of the crimes committed against the community like housebreaking, vandalism etc. The children of community members were threatened on their way to school, so finally the remaining Daimistas did not feel safe anymore and decided to leave the country.

Parallel to these events in Germany, the legalization process was already on its way in the Netherlands, and to not compromise the then still fragile situation of the legal status of Santo Daime there, no further actions of legal defence were undertaken by the exiled Daimistas in their own lawsuit within German territory. All the other persons accused in Germany accepted their fines and indirectly, by doing so, also “admitted” their fault. The leaders of the church in Bad Berka took another direction. Being convinced that their religious practice is a right secured and granted not only by the German Grundgesetz (constitution) and the European Convention of Human Rights, they decided to not accept any penalty and to go through all necessary trials to claim this right. Now living in the territory of the Netherlands they also continued the organisation of ceremonial works in Germany.

Yet the German public prosecutor did not contact the Daimistas for a period of four years. Only when in 2004 a request to the Federal Criminal Police Office (BKA) on the status of the case was made by the exiled Daimistas, they were told that the proceedings were on hold because the accused persons meanwhile lived abroad. Although the Daimistas had told the BKA via their lawyer that they would be available for a lawsuit anytime and that they were ready to take the responsibility for the charges from their domicile in the Netherlands, they again heard nothing from the German authorities which were apparently delaying any decision. Again the legal case was approached with a new lawyer, the result of which was that in 2007 the case was officially dismissed. The public prosecutor argued that although the Daimistas had offended the German drug law, they had acted without knowing that they committed a crime.

However, this argumentation was not satisfying for Santo Daime Germany, because the church was and is convinced that the use of Santo Daime in religious services is protected by article 9 of the European Convention on Human Rights, which does not allow any other limitations for religious freedom than is necessary in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others. The court had argued that the right to freedom of religion had to be limited in this case, because Santo Daime tea, given the fact that it contains the controlled substance DMT, has to be categorized a “hallucinogen” which may cause serious harm to people’s personality and possibly psychosis. For this reason – so the judge argued – the protection of public health had to be considered as a higher good than the right to freedom of religion.<sup>16</sup> Yet neither the BKA nor any other authority could name any scientific study that would support their opinion about Santo Daime tea being a danger for public health or even for individuals – a difference which seems to be of highest relevance when it comes to the pivotal legal term of proportionate action.<sup>17</sup> On the other hand, with almost none of the documents that had been used in the legal decision process of the Brazilian CONAD being translated into German or English it was hard to provide positive, supporting evidence for their case on the side of the Daimistas.

It was not possible to submit a juridical caveat against this decision by the German court. The only thing that seemed to be left to do in this legal case was to demand the restitution of Santo Daime’s sacrament, the tea, which had been confiscated in the 1999 raid. This tea had been kept in the evidence vault of the court. The court reacted with surprising compliance to the request and this time acknowledged in a letter<sup>18</sup> that Santo Daime tea indeed is used solely with religious motivation in the form of a sacrament and therefore agreed to give it back to an official representative of the religion in Brazil. This failed, however, because the church of Santo Daime Brazil was not yet able to obtain an import license for the Santo Daime-tea to Brazil – a historically unique situation of course. Regarding the latest development in this case (February 2009), the BKA advised the church to apply for an exceptional permission for the use of Santo Daime tea at the Federal Institute for Drugs and Medical Devices (Bundesinstitut für Arzneimittel und Medizinprodukte). It remains to be further investigated which result can be reached by this approach; de facto the German drug law permits exceptions to the use of controlled substances only on grounds of scientific or public interests.

In order to support a realistic public appreciation of Santo Daime by gaining scientific evidence, since 2003 a group of the German Daimistas is involved in a scientific study conducted by researchers from the University of Heidelberg, which evaluates the effects of long-time ayahuasca use. Additionally, concerning the legal events characterized above, in 2005 the German Santo Daime church wrote an open letter to the Ministry of the Interior (Bundesministerium des Innern) to raise awareness of the systematic persecution of this religion and to proclaim their interest in attaining a legal status. Furthermore, comprehensive scientific writings and documents about the status of Santo Daime as a religion were filed at the Federal Administration Office (Bundesverwaltungsamt), to provide governmental organizations with the possibility to inform themselves in-depth about the ayahuasca religions. However, there has yet

to be any form of reaction to the filing of these documents from the Federal Administration Office.

In 2004 the German Daimistas managed to register as an official association called *CefluSãoMiguel e. V.*, to be better able to represent and defend their interests in public. Simultaneously, contacts with the Brazilian mother church were intensified again. Nilton Caparelli, Padrinho of the church *Jardim Praia da Beira Mar* in Rio de Janeiro and Secretary of Foreign Affairs from CEFLURIS, took over the patronage for the German church of Santo Daime. In 2005, despite the uncertain legal position of Santo Daime in this country, Nilton Caparelli visited Germany and conducted ceremonies in several cities and since then he has returned annually on religious tours. Intentionally these rituals were not done in secrecy but announced openly in the internal and external communications of the church. Since 2005 members of the German church have travelled to Brazil regularly to take part in *feitios*, the rituals in which the Santo Daime tea is produced, providing them with a more profound knowledge about the production process of the sacrament and the doctrine of Santo Daime.

The communal aspects of the German church have been strengthened considerably through the collaboration with the affiliated church in Rio de Janeiro. Today Santo Daime Germany consists of around 50 initiated members and the religion is practised regularly in several German cities. The church wishes to enter into an open and sincere dialogue with state authorities and is open for scientific investigation and cooperation with governmental institutions, with the aim of cooperatively finding a way to perform their Human Right to practice this peaceful religion in Germany on a legal basis. The Santo Daime church is also open to any serious investigation of so called "sectarian issues," namely charges of "brainwashing" or other dishonourable group psychology techniques that would endanger people's autonomy. It almost goes without saying to express that the Santo Daime community naturally supports the principles of an open and democratic society.

The transcultural process of the expansion of the sacramental uses of the psychoactive ayahuasca tea has been underway globally for quite some time now. As in many other Western countries, the law enforcement institutions in Germany were not prepared to face the reality of this process in an appropriate and proportionate way, and therefore confused the religious practice of a small group of spiritually committed citizens with drug trafficking. To some degree, it is understandable that a society reacts with fear to a new religion that to a great extent is unknown, particularly when there is no cultural concept that distinguishes the use of psychoactive sacramentals from simple drug use (Roberts, 2001; Smith, 2000).

Ayahuasca religions like Santo Daime establish a modern cultural model to experience the *mysterium tremendum* of existence, which should be considered a birth-right for every human being that seeks spiritual or simply human education. If some countries like Peru and Brazil are ready to esteem their traditions of ritual ayahuasca uses as national cultural heritage, should it not be possible for the legislative authorities in Germany and other European countries to take into account that ayahuasca is used by the religious groups which have chosen it as their sacrament in a serious and responsible way that gives cause to the assumption of beneficial effects for many of the religious practitioners? Germany, given its history of abuse of minority rights, is

a nation with a special responsibility for the protection of religious minorities. The future of Santo Daime in Germany will demonstrate, if this country is ready to take over this responsibility in and for a religiously dynamic globalized world.

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- 1 CEFLURIS means Centro Eclético da Fluente Luz Universal Raimundo Irineu Serra (Raimundo Irineu Serra Eclectic Center of the Flowing Universal Light) and is the name for the line of Santo Daime which is mainly responsible for the expansion of the cult beyond the borders of Brazil. It has to be noted that “Santo Daime” is a collective term which contains religious groups of different lines. Some of the people practising this religion in Germany today do not belong to the CEFLURIS church. Either they are connected to another school of Santo Daime or they just borrow the traditional hymns and ritual elements of Santo Daime and blend them with different religious and shamanic traditions or therapeutic approaches (see the introduction of this volume).
  - 2 Padrinho (Godfather) is the title of a male leader of a Santo Daime church.
  - 3 A comitiva is a group of travelling Daimistas, usually composed of a prominent ritual leader, musicians and singers on a tour to foreign branches of the church.
  - 4 The ceremonies were for example modified in such a manner that the participants sat cross-legged on the floor, which is opposed to the traditional form of the Santo Daime ritual (Balzer, 2005).
  - 5 Padrinho Jonas was the founder of the organization Flor da Luz, which at this time was not connected to the line of CEFLURIS from Padrinho Sebastião.
  - 6 A term used for the ritual initiation into the Santo Daime religion. The members of the Santo Daime community are called fardados or fardardas.
  - 7 The ritual ceremony of Santo Daime is also called “trabalho,” which means “work.” This term reflects the mental and physical discipline necessary to take part in a Daime ritual.
  - 8 For example there are German hymns that use motives like dances with dragons or ecstatic flights with eagles. Also there are hymns that contain references to motives from Nordic Mythology e. g. dwarves. For a general discussion of the motives and spiritual topics of European and Brazilian Santo Daime hymns see the anthropological master’s thesis by Baguley (2006).
  - 9 The calendar of liturgical works of the Santo Daime religion during the year.
  - 10 The concept of a subtle metaphysical astral plane of existence has its origins in the philosophic mysticism of neoplatonism where it was first postulated by Proclus. The concept was known in alchemical and hermetic traditions and popularized in the 19th and 20th century by the teachings of Theosophy and Neorosicrucianism.
  - 11 Although some of the German Daimistas did not acknowledge the place as a central church and considered the whole project of creating a centre as premature.
  - 12 It is an interesting side note that both of the police raids against the Santo Daime Germany and also the raid in Oregon (USA) were initiated by frustrated or mentally harmed people who wished to damage the religion for personal reasons.
  - 13 For more information on this topic, check the articles from Adèle van den Plas and Ghislaine Bourgogne in this volume.
  - 14 It has to be mentioned that there were in fact at least 4 more lawsuits in Germany against Daimistas or against people using ayahuasca in shamanic ritual contexts. Two of these cases are not discussed here because the people involved were not willing to give detailed information on the subject. As far as we know, two charges against Daimistas in South-Germany were dropped after some time. From personal communication we know that a neo-shamanic ritual-leader was accused in November 1999. The case ended after some years without him being convicted due to the fact that the court was not able to prove that the tea belonged to him. Another case of a woman who was holding shamanic ceremonies with ayahuasca led to her being imposed with a fine and a sentence that was set at 2 years probation. We hope this article stimulates future research on the topic.

- 15 Some examples from the press (authors translation): “Thüringer Polizei jagt Drogensekte: Eltern vergifteten ihre eigenen Kinder” (Thuringian Police hunts Drug sect: Parents poisoned their own children) (Bild Thüringen 18.05.2000); “Eltern flössten ihren Kindern Drogentea ein (Parents gave their children drug tea)” (Bild Berlin, 18. 05. 2000); “Sekten-Horror: Eltern flößten Baby Droge ein. Die Droge kommt direkt aus dem brasilianischen Dschungel und ist so gefährlich wie LSD (...). Ihre Hersteller - allesamt Mitglieder der Sekte "Santo Daime" - schleppen sie nach Deutschland ein. (...) "Das Gebräu ist eine harte Droge", sagte ein geschockter Polizist. (...) Wer es trinkt, werde süchtig oder aber verrückt“ (Sect Horror: Parents administered baby drug tea. The drug comes directly from the Brazilian jungle and is as dangerous as LSD (...). Its producers, all of them members of the sect “Santo Daime” smuggle the drug to Germany. (...) “The brew is a hard drug says a shocked policeman. (...) who drinks this becomes addicted or mad” (Berliner Kurier 18.05.2000).
- 16 Amtsgericht Weimar, 5. 04. 2006, Az: 674 Js 325 19/99 1 Ls.
- 17 The regional court in Erfurt stated that Santo Daime is qualified as a dangerous hallucinogen on “grounds of reports from consumers, which are known to the BKA Wiesbaden” (Landgericht Erfurt, 16. 02. 2007).
- 18 The court argued (authors translation): (Landgericht Erfurt, 16. 02. 2007; Az: 6 Qs 170/06) “The present case, however, particularly shows that ‘Daime,’ in addition to its lack of criminal relevance in other countries, is treated in the cult-like movement of the ‘Santo Daime’ as a ‘sacrament.’ This follows not only from the various publications that the lawyer of the accused referred to the court, but also from the investigations by the Federal Criminal Office. According to them, Daime is administered exclusively for religious purposes and regularly made in a specific ceremony where it is administered in several doses (...) in order to reach a higher level of consciousness and to ultimately achieve an intense self-awareness by means of the evoked visions. The fact is that the use of Daime is not subject to prosecution in Brazil, and that religion is the sole motivation for its use as a ‘sacrament.’ This therefore demands that we observe the principle of proportionality and refrain from sequestration for the time being and, as a milder means, order the accused (...) to successfully return the evidence objects” (ie. return the Daime to Brazil).