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This Factsheet does not bind the Court and is not exhaustive

Political parties and associations

Under the European Court of Human Rights' case-law, **Article 11** (freedom of assembly and association) **of the European Convention on Human Rights** applies to political parties. It reads as follows:

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Role of political parties

In its case-law, the European Court of Human Rights has underlined the primordial role played in a democratic regime by political parties enjoying the freedoms and rights enshrined in Article 11 (freedom of assembly and association) and also in Article 10 (freedom of expression) of the European Convention on Human Rights. However, it has held that the freedoms guaranteed by Article 11, and by Articles 9 (freedom of religion) and 10 of the Convention, could not deprive the authorities of a State in which an association jeopardised that State's institutions, of the right to protect those institutions.

Under the Court's case-law, "a political party may promote a change in the law or the legal and constitutional structures of the State on two conditions: firstly, the means used to that end must be legal and democratic; secondly, the change proposed must itself be compatible with fundamental democratic principles. It necessarily follows that a political party whose leaders incite to violence or put forward a policy which fails to respect democracy or which is aimed at the destruction of democracy and the flouting of the rights and freedoms recognised in a democracy cannot lay claim to the Convention's protection against penalties imposed on those grounds …" (see, in particular, ***Yazar, Karataş, Aksoy and the People's Labour Party (HEP) v. Turkey***, judgment of 9 April 2002, § 49).

The "exceptions set out in Article 11 are, where political parties are concerned, to be construed strictly; only convincing and compelling reasons can justify restrictions on such parties' freedom of association. In determining whether a necessity within the meaning of Article 11 § 2 exists, the Contracting States have only a limited margin of appreciation." (see, for example, ***Refah Partisi (The Welfare Party) and Others v. Turkey***, judgment of 13 February 2003, § 100).

Dissolution or prohibition of political parties or associations

United Communist Party of Turkey and Others v. Turkey

30 January 1998

The United Communist Party of Turkey ("the TBKP") was formed in June 1990. It was dissolved by an order of the Constitutional Court in July 1991 on the grounds that it had incorporated the word "communist" into its name, which was against Turkish law, and, in particular, that it had encouraged separatism and the division of the Turkish nation.

The Court found a **violation of Article 11** of the Convention. It considered that a political party's choice of name could not in principle justify a measure as drastic as dissolution, in the absence of other relevant and sufficient circumstances. In the absence of any concrete evidence to show that in choosing to call itself "communist", the TBKP had opted for a policy that represented a real threat to Turkish society or the Turkish State, the Court could not accept that the submission based on the party's name might, by itself, entail the party's dissolution. The Court noted that although the TBKP referred in its programme to the Kurdish "people" and "nation" and Kurdish "citizens", it neither described them as a "minority" nor make any claim – other than for recognition of their existence – for them to enjoy special treatment or rights, still less a right to secede from the rest of the Turkish population. The Court underlined that one of the principal characteristics of democracy was the possibility it offered of resolving a country's problems through dialogue. There could thus be no justification for hindering a political group solely because it sought to debate in public the situation of part of the State's population and to take part in the nation's political life in order to find, according to democratic rules, solutions capable of satisfying everyone concerned.

Socialist Party and Others v. Turkey

25 May 1998

The Socialist Party ("the SP") had been formed in February 1988. It was dissolved by an order of the Constitutional Court in July 1992. The Turkish court noted in particular that in its political message the SP referred to two nations: the Kurdish nation and the Turkish nation. It concluded that the SP encouraged separatism and incited a socially integrated community to fight for the creation of an independent federal State, which was unacceptable and justified the party's dissolution.

The Court found a **violation of Article 11** of the Convention. It noted that statements by the party's former chairman had referred to the right to self-determination of the "Kurdish nation" and its right to "secede". However, read in their context, the statements did not encourage secession from Turkey but sought to emphasise that the proposed federal system could not come about without the Kurds' freely given consent, which should be expressed through a referendum. In the Court's view, the fact that such a political programme was considered incompatible with the principles and structures of the Turkish State at the time did not make it incompatible with the rules of democracy. It was of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that called into question the way a State was currently organised, provided that they did not harm democracy itself.

Freedom and Democracy Party (ÖZDEP) v. Turkey

8 December 1999 (Grand Chamber)

The Freedom and Democracy Party (ÖZDEP) was founded in October 1992. In July 1993, the Turkish Constitutional Court made an order dissolving ÖZDEP. While the proceedings concerning the party's dissolution – brought on the grounds that its programme sought to undermine the territorial integrity and secular nature of the State and the unity of the nation – were still pending, the founding members of the party resolved to dissolve it in order to protect themselves and the party leaders from the consequences of a dissolution order – namely a ban on their carrying on similar activities in other political parties.

The Court found a **violation of Article 11** of the Convention. It had not found anything in ÖZDEP's programme that could be considered a call for the use of violence, an uprising or any other form of rejection of democratic principles. On the contrary, the need to abide by democratic rules when implementing the proposed political project was stressed in the programme. In its programme ÖZDEP also referred to the right to self-determination of the "national or religious minorities". However, taken in context, those words did not encourage separation from Turkey but were intended instead to emphasise that the proposed political project must be underpinned by the freely given, democratically expressed, consent of the Kurds. In the Court's view, the fact that such a political project was considered incompatible with the current principles and structures of the Turkish State did not mean that it infringed democratic rules. It was of the essence of democracy to allow diverse political projects to be proposed and debated, even those that called into question the way a State was currently organised, provided that they did not seek to harm democracy itself.

Yazar, Karataş, Aksoy and the People's Labour Party (HEP) v. Turkey

9 April 2002

The HEP (Halkin Emeği Partisi – the People's Labour Party) was founded in 1990. It was dissolved in July 1993 by a judgment of the Turkish Constitutional Court on the ground that its activities were likely to undermine the territorial integrity of the State and the unity of the nation. The Constitutional Court criticised the HEP in particular for "seeking to divide the Turkish nation in two, with Turks on one side and Kurds on the other, with the aim of setting up separate States" and for "seeking to destroy national and territorial integrity".

The Court found a **violation of Article 11** of the Convention. It held in particular that the principles for which the HEP stood, such as the right of self-determination and recognition of language rights, were not, as such, contrary to the fundamental principles of democracy. If it were considered that merely by advocating those principles a political grouping was supporting acts of terrorism, this would diminish the possibility of dealing with related questions within the framework of democratic debate and allow armed movements to monopolise support for the principles concerned. Furthermore, even where proposals informed by such principles were likely to clash with the main strands of government policy or the convictions of a majority of the public, the proper functioning of democracy required political groupings to be able to introduce them into public debate in order to help to find solutions to problems of general interest concerning politicians of all persuasions. The Turkish court had not established that the HEP's policies were aimed at undermining the democratic regime in Turkey.

Refah Partisi (The Welfare Party) and Others v. Turkey

13 February 2003 (Grand Chamber)

Refah Partisi (the Welfare Party - "Refah") was founded in July 1983. It was dissolved in January 1998 by a judgment of the Turkish Constitutional Court on the ground that it had become a "centre of activities against the principle of secularism". The Turkish Constitutional Court also declared that Refah's assets were to be transferred to the Treasury. The Constitutional Court further held that the public declarations of Refah's leaders had been unconstitutional. Consequently, it banned them from sitting in Parliament or holding certain political posts for five years.

The Court found **no violation of Article 11** of the Convention. It considered that the acts and speeches of Refah's members and leaders cited by the Turkish Constitutional Court had been imputable to the whole of the party, that those acts and speeches had revealed Refah's long-term policy of setting up a regime based on sharia within the framework of a plurality of legal systems and that Refah had not excluded recourse to force in order to implement its policy. Given that those plans were incompatible with the concept of a "democratic society" and that the real opportunities Refah had had to put them into practice had made the danger to democracy tangible and immediate, the decision of the Constitutional Court, even in the context of the restricted margin of

appreciation left to it, might reasonably be considered to have met a "pressing social need".

Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania

3 February 2005

Partidul Comunistilor (Nepeceristi), a party of Communists who had not been members of the Romanian Communist Party, "the PCN", had been founded in March 1996. Its registration as a party was refused by the Romanian courts in a decision upheld in August 1996 on the grounds that the PCN was seeking to gain political power in order to establish a "humane State" founded on communist doctrine, meaning that it considered the constitutional and legal order that had been in place since 1989 as inhumane and not based on genuine democracy.

The Court found a **violation of Article 11** of the Convention. Having examined the PCN's constitution and political programme – on the sole basis of which the Romanian courts had rejected the application for the party's registration – it noted that they stressed the importance of upholding the national sovereignty, territorial integrity and legal and constitutional order of the country, and democratic principles including political pluralism, universal suffrage and freedom to participate in politics. They did not contain any passages that might be considered a call for the use of violence, an uprising or any other form of rejection of democratic principles. It was true that there were passages criticising both the abuses of the former Communist Party before 1989, from which the PCN distanced itself, and the policy that had been followed subsequently. However, the Court considered that there could be no justification for hindering a political group that complied with the fundamental principles of democracy solely because it had criticised the constitutional and legal order of the country and had sought a public debate in the political arena. Romania's experience of totalitarian communism prior to 1989 could not by itself justify the need for the interference with the party's freedom of association.

Herri Batasuna and Batasuna v. Spain

30 June 2009

Having previously been established as an electoral coalition Herri Batasuna was registered as a political party in 1986 and Batasuna sought registration as a political party in 2001. In 2003, the Spanish Supreme Court declared both parties illegal, ordered their dissolution and liquidated their assets. It referred to the 2002 law on political parties, finding that the parties were part of "a terrorist strategy of 'tactical separation'" and that there were significant similarities between them and the terrorist organisation ETA.

The Court found **no violation of Article 11** of the Convention. It held in particular that the Spanish courts, after a detailed study of the evidence before them, had arrived at the reasonable conclusion that there was a link between the applicant parties and ETA. In view of the situation that had existed in Spain for many years with regard to terrorist attacks, those links could objectively be considered as a threat for democracy.

HADEP and Demir v. Turkey

14 December 2010

The People's Democracy Party, "HADEP", a smaller opposition party, had been established in May 1994. According to its programme, it advocated "a democratic solution to the Kurdish problem". HADEP was dissolved in 2003 by a decision of the Turkish Constitutional Court, finding that the party had become a centre of illegal activities, which included aiding and abetting the illegal Workers Party of Kurdistan (PKK). The Constitutional Court further banned a number of HADEP's party members from becoming founders or members of any other political party for five years.

The Court found a **violation of Article 11** of the Convention. It held that certain statements made by party members – calling the actions of the Turkish security forces in south-east Turkey in their fight against terrorism a "dirty war" – to which the Turkish court had referred when concluding that HADEP was guilty of aiding and abetting the PKK, were a sharp criticism of the Government's policy but did not encourage violence,

armed resistance or insurrection. Those statements could therefore not in themselves constitute sufficient evidence to equate the party with armed groups carrying out acts of violence. The European Court further found, in particular, that statements by HADEP members which considered the Kurdish nation as distinct from the Turkish nation had to be read together with the party's aims as set out in its programme, namely that it had been established to solve the country's problems in a democratic manner. Even if HADEP advocated the right to self-determination of the Kurds, that would not in itself be contrary to democratic principles and could not be equated to supporting acts of terrorism.

Republican Party of Russia v. Russia

12 April 2011

The applicant party was created in 1990 by the consolidation of the Democratic Wing of the USSR Communist Party and its subsequent secession from that party. In August 2002, it was registered as a party by the Ministry of Justice of the Russian Federation. Before the Court, the applicant party complained that in 2006 the Ministry of Justice refused to amend information about it contained in the State register of legal entities, which had allegedly disrupted its activities, and that it was dissolved in 2007 for failure to comply with the requirements of minimum membership and regional representation.

The Court held that there had been a **violation of Article 11** of the Convention on account both of the authorities' refusal to amend information about the applicant party in the State register and of the party's dissolution. With regard to the latter, it found that the Russian courts had not adduced relevant and sufficient reasons to justify the interference with the applicant party's right to freedom of association and the party's dissolution for failure to comply with the requirements of minimum membership and regional representation had been disproportionate to the legitimate aims cited by the Russian Government. In particular, in the Court's view, there would be means of protecting Russia's laws, institutions and national security other than a sweeping ban on the establishment of regional parties. Moreover, the applicant party, which had existed and participated in elections since 1990, had never advocated regional interests or separatist views, indeed one of its aims had been promotion of the country's unity.

Vona v. Hungary

9 July 2013

The applicant was the chair of the Hungarian Guard Association, founded in 2007 by members of a political party called Movement for a Better Hungary with the stated aim of preserving Hungarian traditions and culture. The association in turn founded the Hungarian Guard Movement with the objective, as defined in its charter, "to defend Hungary, defenceless physically, spiritually and intellectually". In a court judgment eventually upheld in December 2009, the association was dissolved on account of rallies and demonstrations throughout Hungary organised by the movement, including in villages with large Roma populations, calling for the defence of ethnic Hungarians against so-called Gipsy criminality.

The Court found **no violation of Article 11** of the Convention. It recalled that, as with political parties, the State was entitled to take preventive measures to protect democracy against associations if a sufficiently imminent threat to the rights of others undermined the fundamental values upon which a democratic society rested. The movement created by the Hungarian Guard Association had led to demonstrations conveying a message of racial division, which, reminiscent of the Hungarian Nazi Movement (Arrow Cross), had had an intimidating effect on the Roma minority. Such paramilitary marches had gone beyond the mere expression of a disturbing or offensive idea, which was protected under the Convention, given the physical presence of a threatening group of organised activists. Therefore, the only way to effectively eliminate the threat posed by the movement had been to remove the organisational backup provided by the association.

Party for a Democratic Society (DTP) and Others v. Turkey

12 January 2016

This case concerned the dissolution of the Party for a Democratic Society ("the DTP", *Demokratik Toplum Partisi*), part of the pro-Kurdish left-wing political movement, and the forfeiture of the parliamentary mandates of certain of its members of parliament, including those of its co-presidents. The applicants – on the one hand, the DTP, and, on the other, the party's co-presidents and individuals exercising various functions in the party – complained in particular that the dissolution of the DTP had infringed their right to freedom of association.

The Court held that there had been a **violation of Article 11** of the Convention in respect of all the applicants. It found in particular that the reasons put forward by the Constitutional Court for ordering the DTP's dissolution, one of the main political actors which had argued in favour of a peaceful solution to the Kurdish problem, could not be regarded as sufficient to justify the interference in its right to freedom of association. The Court did not identify any DTP political project that was incompatible with the concept of a democratic society; it also considered that the speeches made by its two co-presidents were not such as to justify this dissolution, in so far as they had not encouraged the use of violence, armed resistance or insurrection. The Court noted, however, that taking such a measure on the ground that the party had not openly distanced itself from the acts or speeches of its members or local leaders that could be interpreted as indirect support for terrorism could reasonably be held to have met a "pressing social need". However, it considered that, having regard to the relatively limited political impact on public order or the protection of the rights and freedoms of others, this failure to act could not in itself amount to a reason justifying a sanction of such severity as the dissolution of an entire party.

Nationaldemokratische Partei Deutschlands (NPD) v. Germany

4 October 2016 (decision on the admissibility)

This case concerned a political party, the NPD, and its complaint about being referred to and stigmatised as being both far-right and unconstitutional. In particular, the party alleged that there had been a wide range of infringements of its legal rights in Germany (amounting to a *de facto* ban), and that it had had no means to redress these. Examples of alleged violations included the dismissal of its members from jobs in public service; the inability of the party to open bank accounts; and the prevention of its candidates from standing in elections.

The Court declared the application **inadmissible** as being manifestly ill-founded, finding that sufficient remedies had been available to the NPD at the national level, which had enabled it to effectively enforce its rights under the Convention. The NPD and its members had been able to challenge individual cases of discrimination or restrictions in the German courts. Such remedies had not been made ineffective for any of the reasons advanced by the NPD. In particular, domestic proceedings were not made ineffective because they were not always successful; because they could only provide a remedy for violations after they had happened; or because multiple sets of proceedings were required to address multiple instances of alleged violations. The NPD and/or its members were able to address alleged violations before the criminal, civil and administrative courts, if/when violations occurred in individual cases. Indeed, a declaratory judgment about the party's constitutionality was not required in order for such proceedings to be brought.

Registration of political parties

Linkov v. the Czech Republic

7 December 2006

This case concerned the refusal to register the political party *Liberální Strana* (Liberal Party) on the ground that one of its aims, that of "breaking the legal continuity with totalitarian regimes", was anti-constitutional. The applicant, who was a member of the

preparatory committee of the party in question, submitted in particuar that the refusal of the authorities to register the party had infringed his right to freedom of association.
The Court held that there had been a **violation of Article 11** of the Convention, finding that, as *Liberální Strana* had not advocated any policy that could have undermined the democratic regime in the country and had not urged or sought to justify the use of force for political ends, the refusal to register it had not been necessary in a democratic society. The Court noted in particular that there was no evidence that *Liberální Strana* had not sought to pursue its aims by lawful and democratic means, or that its proposed change of the law had been incompatible with fundamental democratic principles, especially as the party's registration had been refused before it had even had time to carry out any activities. The Court reiterated in that connection that the refusal to register a party was a drastic measure that could be applied only in the most serious cases.

Artyomov v. Russia

7 December 2006 (decision on the admissibility)
The applicant was the leader of the public movement "Russian All-Nation Union". Three years after its registration as a public association, members thereof decided to re-organise the movement into a political party bearing the same name. The application for the party's registration was refused as the Political Parties Act prohibits the establishment of political parties based, in particular, on religious or ethnic affiliation. Taking into account the name of the party, domestic courts considered that it was founded on the basis of ethnic affiliation, in breach of the Act in question, even though the party's articles of association and programme did not indicate protection of the interests of the Russians as its main objective. The applicant unsuccessfully challenged the constitutionality of the Political Parties Act before the Russian Constitutional Court.
The Court declared the application **inadmissible** as being manifestly ill-founded. It observed in particular that the legal status or activities of the public movement "Russian All-National Union" had not been affected by the refusal to register that party. Moreover, the prohibition against explicit ethnic or religious affiliation was of a limited remit: it applied solely to political parties but to no other type of public association. The applicant's ability to lead a public association, even based on ethnic affiliation, had further been unhampered. Thus, the applicant's freedom of association had not *per se* been restricted by the State, only its ability to nominate candidates in elections. States, however, have considerable latitude to establish the criteria for participation in elections. In this connection, the Court noted that the Russian Constitutional Court had expounded on the reasons which led it to conclude that in modern-day Russia it would be perilous to foster electoral competition between political parties based on ethnic or religious affiliation. Regard being had to the principle of respect for national specificity in electoral matters, it did not find these reasons arbitrary or unreasonable. The interference had therefore been proportionate to the legitimate aims pursued.

Yordanovi v. Bulgaria

3 September 2020
In 2008 the applicants, two brothers, who were businessmen and belonged to the Turkish-Muslim minority, set up and registered an association for the integration of the Turkish speaking population in Bulgaria. They complained about the subsequent criminal proceedings brought against them for attempting to set up a political party "on a religious basis", submitting in particular that these proceedings had constituted an unjustified restriction of their right to freedom of association.
The Court held that there had been a **violation of Article 11** of the Convention, finding that the criminal proceedings against the applicants for attempting to set up a political party on a religious basis had not been necessary in a democratic society. It emphasised in particular that a criminal conviction represented one of the most serious forms of interference with the right to freedom of association, one of whose objectives was the protection of opinions and the freedom to express them, especially where political parties were concerned. In the present case, the Court noted that the applicants had not

completed the requisite procedure in order to register the political party. Under Bulgarian law, the result of this failure was that the party could not exist or engage in any activity. Consequently, the result sought by the authorities – namely to ensure the peaceful coexistence of the various ethnic and religious groups in Bulgaria – could be achieved through such a procedure by a refusal to grant an application for registration of the political party. There was also a possibility for the authorities to dissolve a party which had been declared unconstitutional by the Constitutional Court. The Court therefore saw no reason why, in the circumstances of the case, criminal proceedings for attempting to set up a political party, which resulted in the applicants' conviction and sentence, thus representing a particularly severe response on the part of the authorities, had been necessary in addition to those other possibilities.

The Committee for the organisation and for the registration of the Romanian Communist Party v. Romania

30 November 2021 (Committee decision)

This case concerned the denial of the application for registration on the list of political parties of the Romanian Communist Party (RCP). The domestic authorities had taken the view that the RCP's programme and constitution contained vague and general terms, disregarding the social and political evolution of the country since 1989, that they allowed for totalitarian and extremist actions capable of harming national security, that they represented a danger for democratic values and that the party had not dissociated itself from the former Romanian Communist Party (former RCP).

The Court declared the application **inadmissible**, as being manifestly ill-founded, finding that the denial of the applicant's registration had been "necessary in a democratic society" within the meaning of Article 11 of the Convention. The Court considered, in particular, that the domestic courts' analysis of the constitution and political programme submitted by the applicant had not been unfounded. The authorities had wished to prevent a political formation which had seriously abused its position over a long period, by creating a totalitarian regime, from misusing its rights in the future, and thereby to avoid any danger to national security or to the foundations of a democratic society. This refusal had been underpinned by a wish to counter a particularly serious abuse, albeit only potential, which would have undermined the principles of the rule of law and the foundations of democracy. The interference in question had thus met a "pressing social need" and had not been disproportionate to the legitimate aims pursued, namely the protection of national security and the rights and freedoms of others.

Financing of political parties

Basque Nationalist Party – Iparralde Regional Organisation v. France

7 June 2007

The applicant party is the French "branch" of the Spanish Basque Nationalist Party. In order to be able to receive funds, in particular financial contributions from the Spanish party, it formed a funding association in accordance with the 1988 Political Life (Financial Transparency) Act. However, authorisation of the association, a prerequisite for its operation, was refused on the ground that most of the applicant party's resources derived from the support it received from the Spanish party. The applicant party complained of the adverse effects on its funds and on its ability to pursue its political activities, particularly in the electoral sphere.

The Court held that there had been **no violation of Article 11 taken alone or in conjunction with Article 10** (freedom of expression) of the Convention. It considered, first of all, that the refusal of the request for approval of the funding association amounted to interference with the exercise by the applicant party of the rights guaranteed by Article 11, which had been prescribed by law and pursued the legitimate aim of preventing disorder. As to whether the interference had been necessary, the Court observed that the fact that political parties were not permitted to receive funds from foreign political parties was not in itself incompatible with Article 11 of the

Convention. In that connection it pointed out in particular that, while the applicant party could not receive financial assistance from the Spanish Basque Nationalist Party, it could nevertheless fund its political activities with the help of members' contributions and donations from individuals – including those from outside France – which it could collect through a financial agent or a funding association approved on the basis of a new application. Furthermore, there was nothing to prevent it from receiving funds from other French political parties or from taking advantage of the system of public funding put in place by the French legislature. The Court therefore found that the measure in question did not have a disproportionate impact on the ability of the applicant party to conduct its political activities. While the prohibition on receiving contributions from the Spanish Basque Nationalist Party had an effect on the party's finances, the situation in which it found itself as a result was no different from that of any small political party facing a shortage of funds.

Demokrat Parti v. Turkey

7 September 2021 (decision on the admissibility)

This case concerned the refusal by the Ministry of Finance to pay a political party public funding for the year 2006, following the repeal in May 2005 of section 16 of the Political Parties Act (Law no. 2820) – on the basis of which the party in question had previously been eligible for public funding. The applicant party argued that there had been a breach of its right to freedom of association and that it had been discriminated against, in that the funding in question had been granted to other political parties. It also submitted that this discrimination had given rise to inequality between the various political parties taking part in the electoral campaign.

The Court declared the application **inadmissible** as being manifestly ill-founded. It reiterated, in particular, that a difference in treatment could raise an issue from the point of view of the prohibition of discrimination as provided for in Article 14 (prohibition of discrimination) of the Convention only if the persons subjected to different treatment were in a relevantly similar situation, taking into account the elements that characterised their circumstances in the particular context. In the present case, the Court noted that the applicant party had not been treated differently – in relation to another political party in a comparable situation – in the exercise of its rights or its political activities, for the purposes of Article 14 taken together with Article 11 of the Convention, on account of the refusal to pay the contested public funding for 2006.

Inspection of political parties' expenditure

Cumhuriyet Halk Partisi v. Turkey

26 April 2016

This case concerned the confiscation of a substantial part of the assets of Turkey's main opposition party, Cumhuriyet Halk Partisi, by the Constitutional Court following an inspection of its accounts for the years 2007 to 2009. The applicant party complained that the confiscation orders had put a substantial financial strain on its political activities. It notably complained about the authorities' failure to provide at the relevant time for a clear, foreseeable and predictable basis in law making it possible, firstly, to determine in advance the kinds of expenditure which fell within the scope of "unlawful expenditure" and, secondly, to anticipate the circumstances in which the Constitutional Court would issue a warning, rather than a confiscation order, in response to a financial irregularity.

The Court held that there had been a **violation of Article 11** of the Convention, finding that the high standard of foreseeability required as regards laws that govern the inspection of the finances of political parties had not been satisfied in the applicant party's case. It noted in particular that requiring political parties to subject their finances to official inspection did not in itself raise an issue under Article 11, as it served the goals of transparency and accountability, thus ensuring public confidence in the political process. The Court stressed however that, having regard to the important role played by political parties in democratic societies, any legal regulations which might have the effect

of interfering with their freedom of association, such as the inspection of their expenditure, had to be couched in terms that provided a reasonable indication as to how those provisions would be interpreted and applied. In the applicant party's case, the scope of the notion of unlawful expenditure under the relevant legal provisions in force at the time as well as the applicable sanctions for unlawful expenditure had, however, been ambiguous.

Liberté de communiquer des opinions et idées politiques

Associazione Politica Nazionale Lista Marco Pannella et Radicali Italiani v. Italy and Associazione Politica Nazionale Lista Marco Pannella v. Italy

31 August 2021

The first applicant, a political association, complained that the three television channels of the State broadcaster RAI had discontinued a type of programme devoted to political debate, known as "political platforms". In the second case, the same association complained that its representatives had not been invited to appear on the most important news programmes broadcast by RAI, whereas representatives of other political formations had taken part. The applicant political associations claimed to be the victims of a violation of their right to freedom to impart their political opinions and ideas in the media outside election periods.

In the first applicant's case, the Court held that there had been **no violation of Article 10** (freedom of expression) of the Convention, finding that the discontinuation of the "political platforms" had not deprived the applicant association of the possibility of imparting its opinions, and could thus not be regarded as a disproportionate interference with its right to freedom of expression. The Court held, however, that there had been a **violation of Article 13** (right to an effective remedy) of the Convention **in conjunction with Article 10** in the first applicant's case, in that the applicant association had not had a remedy by which to complain to the national authorities about the discontinuation of the "political platforms" and the alleged violation of its right to freedom of expression. As to the second applicant, the Court held that there had been a **violation of Article 10** of the Convention in the case, finding that the measures taken by the domestic authorities to redress the imbalance that had resulted in the applicant association's exclusion from political debate had been insufficient.

Holding of congresses

Yeşiller ve Sol Gelecek Partisi v. Turkey

10 May 2022[1]

This case concerned the National Electoral Commission's refusal to allow the applicant party ("Greens and the Left Party of the Future") to hold local party conferences in the cities of Ankara, Antalya and Artvin, in 2013, on the grounds that it did not have branches in at least one third of the municipalities of those cities.

The Court held that there had been **no violation of Article 11** of the Convention, finding that the reasons given by the National Electoral Commission had been relevant and sufficient, and that the interference with the applicant party's right to freedom of association had been proportionate to the legitimate aim pursued in a democratic society. It noted, in particular, that the reasons put forward in the impugned decisions, as well as those of the legislature, had not prevented the applicant party from exercising its right to the freedom to pursue associative activities, in its capacity as a political party. The Court also held that there had been **no violation of Article 13** (right to an effective remedy) of the Convention taken in conjunction with Article 11, since the applicant party had had an effective remedy before a national court through the

[1]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.

possibility of applying to the National Electoral Commission, the highest national court with jurisdiction to rule in such disputes under the domestic law in force.

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