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

SECOND SECTION

DECISION

Application no. 24331/18
DEMOKRATİK SOL PARTİ
against Türkiye

The European Court of Human Rights (Second Section), sitting on 30 January 2024 as a Committee composed of:

Jovan Ilievski*, President*,
Lorraine Schembri Orland,
Diana Sârcu*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 24331/18) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 21 May 2018 by a political party, Demokratik Sol Parti (DSP – "Party of the Democratic Left"; hereinafter "the applicant party"), which was founded in 1985, is based in Ankara and was represented by Mr O. İste, a lawyer practising in Istanbul;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged violation of the applicant party's right to stand in the parliamentary elections of 24 June 2018 owing to its failure to meet the criteria prescribed by law.

2. On 22 April 2018, on the basis of the organisational records filed by parties as of 19 April 2018 and kept by the Chief Public Prosecutor's Office at the Court of Cassation, the National Electoral Commission (*Yüksek Seçim Kurulu* – "the Commission") announced the list of political parties allowed to participate in the elections pursuant to sections 20 and 36 of Law no. 2820 on political parties (*Siyasi Partiler Kanunu*) and section 14 of Law no. 298 on the basic provisions relating to elections and electoral lists (*Seçimlerin Temel Hükümleri ve Seçmen Kütükleri*). The applicant party was not listed among those parties, on the grounds that it had failed to establish the party's

organisational bodies in at least half of the provinces and districts of Türkiye at least six months prior to election day.

3. The applicant party objected to that decision before the Commission, arguing in particular that it had convened its grand congress and by 27 April 2018 would have established its organisational bodies in forty-one provinces. Therefore, it should have been deemed to be a party that had fulfilled all the preconditions for stand for election. The applicant party further stated that the relevant law did not require political parties to hold their district-level congress in order to establish their organisational body in a particular province.

4. On 25 April 2018 the Commission dismissed the applicant party's objection, noting that it had failed to comply with the requirements for running in elections, in particular that of setting up its organisational bodies in at least half of the provinces at least six months prior to election day. The Commission further stated that in order to be considered to have an organisational body in a particular province, a party needed to have established organisations in at least one-third of the districts of that province and to have held its district congress, which had not been the case in respect of the applicant party. Since, pursuant to Article 79 of the Constitution, no appeal lies against the decisions of the Commission to any other body, that decision became final on the date of its delivery.

5. The applicant party complained that the Commission had misapplied the legislation and that the decision on its eligibility to stand for election had infringed its right to participate in the parliamentary elections of 24 June 2018. In that connection, the applicant party relied on Articles 10 and 11 of the Convention and Article 3 of Protocol No.1. Relying on Article 6, the applicant party further complained that there was no effective remedy at its disposal in respect of the Commission's decisions, since no appeal lay against its decisions to any other body.

THE COURT'S ASSESSMENT

6. The applicant party complained of a breach of its rights under Articles 10 and 11 of the Convention and Article 3 of Protocol No. 1 owing to its ineligibility to stand in the 2018 parliamentary elections.

7. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 126-127, 20 March 2018, and *Yeşiller ve Sol Gelecek Partisi v. Turkey*, no. 41955/14, § 26, 10 May 2022), considers that the applicant party's complaints mainly relate to the alleged violation of its right to freedom of association and falls to be examined under Article 11 of the Convention.

8. A description of the relevant domestic law on the establishment of a political party's organisational bodies in provinces and sub-provinces may be found in *Yeşiller ve Sol Gelecek Partisi* (cited above, §§ 18-24).

9. The Court notes that in its judgment in *Yeşiller ve Sol Gelecek Partisi* (cited above, §§ 45-55), it examined the relevant legislation which laid down the conditions that should be fulfilled by a political party in order to be able to participate in parliamentary elections, and the implementation of that legislation by the Commission with respect to its compliance with the standards set out in Article 11 of the Convention. In the light of its examination, the Court stated that the reasons given by the Commission had been relevant and sufficient and the interference had been proportionate to the legitimate aim pursued in a democratic society, and thus it concluded that neither the reasons put forward in the impugned decisions nor the intention of the legislature had prevented the applicant party from exercising its freedom to pursue associational activities in its capacity as a political party, and there had been no violation of Article 11 of the Convention (ibid., §§ 51-55, and the cases cited therein).

10. In the instant case, the Court is satisfied that the reasons advanced by the Commission in support of its judgments were relevant and sufficient, and that the interference was not disproportionate to the legitimate aim pursued. Accordingly, the interference with the applicant party's right to freedom of assembly was "necessary in a democratic society".

11. The Court reiterates its conclusion in Yeşiller ve Sol Gelecek Partisi (cited above) and sees no reason in the present case to depart from its findings in that judgment.

12. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

13. As regards the applicant party's complaints under Article 6 of the Convention, the Court finds it appropriate to examine them under Article 13 taken in conjunction with Article 11.

14. The Court notes that it has already examined and rejected complaints under Article 13 of the Convention about the impossibility of appealing against the Commission's decisions to any other body, including the Constitutional Court (see *Oran v. Turkey*, nos. 28881/07 and 37920/07, § 87, 15 April 2014; *Dicle and Sadak v. Turkey*, no. 48621/07, §§ 96-97, 16 June 2015; and *Yeşiller ve Sol Gelecek Partisi*, cited above, §§ 58-62). In that connection, in *Dicle and Sadak* the Court noted that, under Article 79 of the Constitution, the Commission had the authority to examine complaints raised under Article 3 of Protocol No. 1 to the Convention. The Court considered that the refusal of their application by the Commission showed that the applicants had indeed brought their complaint before a national body prior to submitting it to the Court.

15. In the light of the foregoing, the Court finds no reason to depart from its findings in the above-mentioned judgments.

16. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 22 February 2024.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President