



## Violation of the electoral rights of the *Yabloko* party in the region of Karelia

In today's Chamber judgment<sup>1</sup> in the case of [Yabloko Russian United Democratic Party and Others v. Russia](#) (application no. 18860/07) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 of Protocol 1 (right to free elections) of the European Convention on Human Rights, in relation to the Karelian regional division of the *Yabloko* party, and one of its members.**

The case concerned the decision by the Supreme Court of Karelia to cancel the registration of *Yabloko* candidates in the October 2006 elections for the Legislative Assembly of Karelia. The applicants complained that they had been arbitrarily excluded from participation in the election: for the first applicant (the regional division of the *Yabloko* party), this was because it had not been allowed to register candidates for the election; for the second and third applicants (Ms Petelyayeva and Mr Klimchuk), this was because they had not been allowed to stand in the election; and for the fourth applicant (Ms Fillipenkova), this was because she had not been able to vote for her preferred party candidates in the election.

The Court found in particular that the decision to cancel the registration of the *Yabloko* candidates had been neither foreseeable under national law nor proportionate. There had therefore been a violation of the right to free elections, for both the *Yabloko* regional party, and the third applicant, Mr Klimchuk.

The application of the second applicant, Ms Petelyayeva, was ruled inadmissible, because she had failed to provide written authority to demonstrate that the application had been submitted on her behalf. The Court also held that there had been no violation of the right to free elections of the fourth applicant, Ms Fillipenkova. Though she had complained that her voting choice had been restricted, the Court held that this restriction had not been sufficiently serious as to amount to a violation.

### Principal facts

The applicants are the Karelian regional division of the *Yabloko* Russian United Democratic Party ("*Yabloko*"), a political party registered under the laws of the Russian Federation, and Irina Petelyayeva, Aleksandr Klimchuk and Kseniya Fillipenkova, Russian nationals who were born in 1959, 1949, and 1981 respectively and live in the Republic of Karelia. Ms Petelyayeva is the chairwoman and Mr Klimchuk and Ms Fillipenkova are members of *Yabloko*.

On 10 and 11 June 2006, the thirteenth national *Yabloko* party congress was held. Several amendments to the party's charter were adopted. The charter had included a division between party members and registered party members, whereby the right to elect and be elected to the party's governing bodies was reserved to registered members. This provision was maintained under the amendments: however, the new version additionally specified that party members who did not

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

register automatically delegated the right to elect and be elected within the party to the registered party members of the relevant local branch.

In the regional party conference of 12 August 2006, 25 candidates were nominated to the party list, and candidates for three electoral constituencies were selected, in preparation for the regional elections set to take place on 8 October 2006. The applicants Mr Klimchuk and Ms Petelyayeva were selected to stand in two single-mandate constituencies. The meeting was attended by representatives of the Federal Registration Service, and Central Election Commission of the Republic of Karelia (the Election Commission). At the time, they did not report any irregularities in the conduct of the conference. On 17 and 22 August 2006, the Election Commission registered the party's list, and the three constituency candidates (including Mr Klimchuk and Ms Petelyayeva).

However, just over two weeks later the Electoral Commission applied to the Supreme Court of the Republic of Karelia, to annul its own decision to register the *Yabloko* candidates. On 15 September 2006 the court found in the Electoral Commission's favour. The court annulled the registration on two grounds. First, it held that the party's procedure – whereby only registered members had taken part in the decision-making process – had been in breach of the relevant legislation on political parties, as it was contrary to the principles of equal democratic representation and majority rule.

Second, the court held that the regional party had submitted an invalid version of the party's charter to be applicable to the regional conference in August, since the amendments made in the national party congress in June meant that the old version of the charter, which had been submitted by the regional party, had ceased to be valid.

The *Yabloko* party appealed to the Supreme Court of the Russian Federation. However, this was dismissed on 29 September 2006, for reasons similar to those upheld by the Karelia Supreme Court.

As a result of the annulment order, none of *Yabloko's* candidates were present on the ballot for the Legislative Assembly elections that took place on 8 October 2006, and the party lost its election deposits. Ms Fillipenkova claims that she cast a ballot for the *Yabloko* party list, but that her choice was not counted in the election results.

## Complaints, procedure and composition of the Court

Relying in particular on Article 3 of Protocol No. 1 (right to free elections), the applicants complained that the annulment order had arbitrarily excluded them from participation in the election. For *Yabloko*, this was because it had not been allowed to register candidates for the election; for Ms Petelyayeva and Mr Klimchuk, this was because they had not been allowed to stand in the election; and for Ms Fillipenkova, this was because she had not been able to vote for her preferred candidate in the election.

The application was lodged with the European Court of Human Rights on 29 March 2007.

Judgment was given by a Chamber of seven judges, composed as follows:

Luis **López Guerra** (Spain), *President*,  
Helena **Jäderblom** (Sweden),  
Helen **Keller** (Switzerland),  
Dmitry **Dedov** (Russia),  
Branko **Lubarda** (Serbia),  
Pere **Pastor Vilanova** (Andorra),  
Georgios A. **Serghides** (Cyprus),

and also Stephen **Phillips**, *Section Registrar*.

## Decision of the Court

### Article 3 of Protocol No.1 to the Convention (right to free elections)

#### The Second Applicant (Ms Petelyayeva)

The Court dismissed the application of Ms Petelyayeva, finding it inadmissible. This was because, though Ms Petelyayeva's application had been lodged through her alleged representative, no written authority from her had been submitted, and the application form had not been signed.

#### The First and Third Applicants (*Yabloko* and Mr Klimchuk)

The cancellation of the registration of the *Yabloko* party list and its individual candidates constituted a restriction of the right to free elections of both *Yabloko* and the third applicant, Mr Klimchuk. The Court held that this restriction had been neither foreseeable, nor proportionate.

In particular, the Court addressed the two main propositions relied upon by the Karelia Supreme Court, in its decision to cancel the registration. The first was the conclusion that *Yabloko's* procedure for the selection of candidates had violated the ground rules of democratic representation and majority rule. In making this finding, the Karelia Supreme Court did not rely directly on any provisions of domestic legislation, but on its own interpretation of the Political Parties Act and the Basic Guarantees Act. The Court held that this interpretation had not been foreseeable, in relation to both the interpretation of the contents of the legislation, and given that no new facts had arisen since the Electoral Commission had registered the *Yabloko* candidates two weeks earlier. Such an interpretation also affected the internal organisation of *Yabloko*, interfering with its autonomy. The Court also relied on the relevant documents of the Venice Commission, that set limits for State interference with parties' internal organisation.

The second reason upheld by the Karelia Supreme Court to justify the cancellation of the registration had been that *Yabloko* had relied upon an invalid version of its charter. However, the Court noted in particular that similar regulations had existed in both the old and new versions of the charter; that there had been sufficient transparency, to ensure that party members could determine the relevant rules, despite the amendments; that no complaints had been made to the authorities by any *Yabloko* members; and that both versions of the charter had been deposited with and accepted by the Federal Registration authority. In these circumstances, the decision to annul the registration of the party's candidates for this formalistic reason had been disproportionate.

Therefore, the Court held that the decision had violated the right to free elections of both *Yabloko* and Mr Klimchuk.

#### The Fourth Applicant (Ms Fillipenkova)

Relying on its case law, the Court noted the general rule that the absence of a particular party or name on a voting ballot cannot by itself lead to a finding of a violation of a frustrated voter's right to free elections; unless the restrictions on the free expression of the will of the people had been so serious as to have effectively curbed the very essence of the right in question.

In the case of Ms Fillipenkova, the elections in question had still been contested by seven different parties, which had had a variety of political programmes. In the absence of weighty evidence to the contrary, this suggests that Ms Fillipenkova had had a reasonable opportunity to give her vote to one of the political forces at the election, or to choose another means to express her dissatisfaction (such as by spoiling her ballot paper, as she claims she did).

The Court therefore held that there had not been a sufficiently serious restriction on the free expression of the will of the people, and that there had therefore been no violation of Article 3 of Protocol 1 in relation to Ms Fillipenkova.

### Just satisfaction (Article 41)

As the applicants had not submitted a claim for just satisfaction, the Court held that there was no call to award them any.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.