



A political party which was refused public funding in 2006 was not discriminated against: application inadmissible

In its decision in the case of [Demokrat Parti v. Turkey](#) (application no. 8372/10) the European Court of Human Rights has unanimously declared the application inadmissible.

The case concerns the refusal by the Ministry of Finance to pay the applicant – 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). The applicant party relied on Articles 11 (freedom of association) and 14 (prohibition of discrimination) of the European Convention on Human Rights.

The Court reiterated 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 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, it noted that the applicant party (Demokrat Parti) 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.

The complaint was thus manifestly ill-founded. This decision is final.

Principal facts

The applicant, *Demokrat Parti* (“Democrat Party”), is a political party which has its headquarters in Ankara. At its annual conference in 2009 the political party *Anavatan Partisi* (“ANAP”, the Motherland Party) decided to merge with the applicant party, under the latter’s name, that is, *Demokrat Parti*.

In March 2006 the ANAP applied to the Ministry of Finance for public funding for the year 2006. The following day the Ministry of Finance refused this request, arguing that section 16 of the Political Parties Act (Law no. 2820) – on the basis of which the applicant party had previously been eligible for public funding – had been repealed on 7 May 2005 by section 1 of Law no. 5341.

The applicant lodged an appeal before the Ankara Administrative Court, which set aside the Minister of Finance’s decision in July 2006. However, the Supreme Administrative Court overturned the latter ruling in October 2008, holding that the applicant was not entitled to public funding for 2006.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 27 January 2010.

Relying on Articles 11 (freedom of assembly and association) and 14 (prohibition of discrimination), 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 decision was given by a Chamber of seven judges, composed as follows:

Jon Fridrik **Kjølbro** (Denmark), *President*,
Carlo **Ranzoni** (Liechtenstein),
Aleš **Pejchal** (the Czech Republic),
Valeriu **Grițco** (the Republic of Moldova),
Branko **Lubarda** (Serbia),
Marko **Bošnjak** (Slovenia),
Saadet **Yüksel** (Turkey),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

The Court noted that there were two systems of public funding for political parties in the relevant domestic law.

The first system concerned political parties which had taken part in the most recent parliamentary elections and had obtained at least 7% of the votes cast. In the present case, although the applicant party had taken part in the legislative elections on 3 November 2002, it had obtained 5.18% of the votes cast, and had thus failed to reach the national threshold required for representation in the National Assembly. Thus, the applicant party did not fulfil the necessary conditions in order to be granted the public funding provided for under this first system.

The second system of public funding provided that such funding was granted to political parties which had obtained less than 7% of the votes cast and were represented in the National Assembly by at least three members following the transfer of elected members to the lists of other political parties. Having fulfilled these criteria, the applicant company had thus received public funding until 2005, when section 16 of Law no. 2820, which provided for this line of funding, was repealed. It was for this reason that the Minister of Finance had refused in 2006 to grant the public funding previously paid to the applicant party.

The Court reiterated 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 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 applicant party had not received funding from the respondent State for 2006. It alleged that the Genç Parti (the Youth Party) had obtained public funding on account of having obtained 7% of the votes cast in the parliamentary elections of 3 November 2002, even though that party did not have any representatives in the National Assembly. In contrast, the applicant party had not obtained public funding although it had had more than three representatives sitting in the National Assembly.

Having examined all the arguments put forward by the parties and the conditions required in order to be granted public funding, the Court noted that the Genç Party had received public funding for having obtained 7% of the votes cast in the parliamentary elections of 3 November 2002. The threshold of 7% of votes cast had been sufficient to be granted public funding but insufficient to win seats in the National Assembly, in that it was lower than the minimum level of electoral support required. It had therefore been eligible to receive public funding, in accordance with the applicable law, which had still been in force, not for having been unable to elect representatives to the National Assembly, as the applicant party alleged.

In contrast, the applicant party had obtained 5.18% of the votes cast in the parliamentary elections of 3 November 2002. The threshold of 5.18% of the votes expressed had been insufficient to obtain

public funding and had also been insufficient to win representatives in the National Assembly, in that it was lower than the minimum level of electoral support required. It followed that as the amount of votes obtained by the applicant had been lower than the 7% threshold required, it could not be granted the public funding granted to the Genç Parti, which had obtained 7% of the votes cast. In consequence, the applicant party had not been placed in an analogous or relevantly similar position to the Genç Parti.

In addition, a careful examination of the documents in the case file did not allow the Court to find that another political party in an analogous or relevantly similar situation to that of the applicant party had received the public financial aid which had been refused to it in 2006. Furthermore, the applicant party did not submit any factual or legal argument capable of supporting such an allegation.

In consequence, the Court concluded that the applicant party had not been treated differently in the exercise of its political rights or activities, within the meaning of Article 14 taken together with Article 11 of the Convention, in relation to the non-payment of the contested public funding for 2006. This complaint was therefore manifestly ill-founded and had to be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

The decision is available only in French.

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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.