

Candidate disqualified from standing in 2021 Duma elections on arbitrary grounds: violation of right to free elections

In today's Chamber judgment¹ in the case of [Shlosberg v. Russia](#) (application no. 32648/22) the European Court of Human Rights held, unanimously, that there had been:

A violation of Article 3 of Protocol No. 1 (right to free elections) to the European Convention on Human Rights

The case concerned an opposition politician who stood as a candidate in the 2021 State Duma elections and was disqualified on account of his involvement in an organisation classified as extremist by the Russian authorities. This "involvement", according to the authorities, had consisted in taking part in a peaceful rally in support of Alexei Navalny and in encouraging others to do the same.

The Court found, in particular, that exercising the Convention right to peaceful assembly could not constitute grounds for any sanction, including disqualification from standing for Parliament. This reason had been an arbitrary ground for disqualification. That consideration was all the more relevant with regard to the action for which the applicant had been criticised, which consisted in merely encouraging other people to take part in this rally. The applicant's disqualification, while formally complying with positive law, had thus been based on arbitrary grounds.

Principal facts

The applicant, Lev Markovich Shlosberg, is a Russian national who was born in 1963 and lives in Pskov (Russia). He is an opposition politician.

In January 2021 Mr Shlosberg took part in a rally in support of Mr Navalny, which led to his being ordered to pay an administrative fine for having organised an unauthorised public event (those events gave rise to a [judgment](#) delivered by the Court on 27 June 2024 (application no. 52263/21 and 12 others)).

In July 2021 Mr Shlosberg stood as a candidate in the 2021 elections to the State Duma (the lower house of the Russian Parliament). The following month, the electoral commission of the relevant constituency approved his candidacy.

The day after approval was granted, a rival candidate brought a legal action seeking to have that decision set aside; he argued that the applicant should be disqualified for his involvement in the "Navalny Headquarters" organisation. On 9 June 2021 that organisation had been classified as extremist and banned by the Moscow City Court on the grounds that, among other things, it had arranged unauthorised public events in support of Mr Navalny in Moscow and other cities.

In August 2021 the Moscow City Court ruled in favour of the action brought by the rival candidate. It noted, among other points, that Mr Shlosberg's involvement in the running of "Navalny Headquarters" was shown by his role in organising an unauthorised public event in support of

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.

Mr Navalny. It also noted that, in statements made on the internet, Mr Shlosberg had expressed approval, admiration and gratitude towards those who had taken part in that event. It held that those statements constituted involvement in the activities of an extremist organisation.

Mr Shlosberg lodged several unsuccessful appeals against that decision. He was subsequently removed from the electoral list.

Complaints, procedure and composition of the Court

Relying in particular on Article 3 of Protocol No. 1 (right to free elections) to the Convention, Mr Shlosberg complained about the annulment of his registration as a candidate in the 2021 Duma elections.

The application was lodged with the European Court of Human Rights on 14 June 2022.

The Court's procedure for processing of applications against Russia can be found [here](#).

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

Pere **Pastor Vilanova** (Andorra), *President*,
Jolien **Schukking** (the Netherlands),
Georgios A. **Serghides** (Cyprus),
Peeter **Roosma** (Estonia),
Ioannis **Ktistakis** (Greece),
Oddný Mjöll **Arnardóttir** (Iceland),
Diana **Kovatcheva** (Bulgaria),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

The Court found that it had jurisdiction to examine the present application, the facts giving rise to it having occurred prior to 16 September 2022, the date on which the Russian Federation had ceased to be a party to the European Convention on Human Rights. It also held that the failure by the Russian Government to participate in the proceedings did not preclude its examination of the case.

[Article 3 of Protocol No. 1](#)

The Court noted that the applicant had been disqualified a mere six days after being registered on the list of candidates for the elections to the Russian State Duma.

The Russian courts had based their decision on the applicant's support for Mr Navalny, which he had expressed by participating in a rally and encouraging others to do the same.

The Court reiterated that freedom of peaceful assembly was a fundamental right guaranteed by Article 11 (freedom of assembly and association) of the Convention. Furthermore, it had already held that the applicant's conviction for exercising that right had been in breach of Article 11 (see the Court's [judgment](#) of 27 June 2024, application no. 52263/21).

It followed that the fact of exercising the Convention right to peaceful assembly could not constitute a ground for any form of sanction, including disqualification from standing for Parliament. This reason had been an arbitrary ground for disqualification. That consideration was all the more relevant with regard to the action for which the applicant had been criticised, which consisted in merely encouraging other people to take part in the rally in question.

Accordingly, the Court held that the applicant's disqualification, while formally complying with positive law, had been based on arbitrary grounds. **It therefore found a violation of Article 3 of Protocol No. 1 to the Convention.**

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 7,500 in respect of costs and expenses.

The judgment 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.