



Conviction of two individuals for distributing political party leaflets breached their freedom of expression

In today's **Chamber** judgment¹ in the case of **[Bilen and Çoruk v. Turkey](#)** (application no. 14895/05) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 (right to a fair trial) of the European Convention on Human Rights, and a violation of Article 10 (freedom of expression).

The case concerned the conviction of two members of the Youth Movement of the Labour Party (*Emek Partisi*), who were fined for distributing the party's leaflets without prior authorisation.

The Court found, in particular, that the interference with the freedom of expression of the two members of the Labour Party's Youth Movement for distributing leaflets was not prescribed by law and did not meet the requirements of sufficient precision and foreseeability for the purposes of Article 10 of the Convention, since, at the relevant time, two provisions governing the distribution of leaflets were in force, one prohibiting the distribution of leaflets without such authorisation (Article 534 of the Criminal Code), and the other exempting political parties from that obligation (section 44 of the Associations Act). The Court also held that there had been no public hearing of the applicants' case in the domestic courts.

Principal facts

The applicants, Abdullah Bilen and Cihan Çoruk, are Turkish nationals who were born in 1983 and 1981 respectively and live in İzmir (Turkey).

On 5 June 2003 A. Bilen and C. Çoruk were arrested by Gendarmerie officers while they were collecting funds for the victims of the Bingöl earthquake and distributing leaflets produced by the Labour Party (*Emek Partisi*), criticising the Government's policy *vis-à-vis* the Kurds. Criminal proceedings were brought against them and they were fined about 50 euros by the İzmir District Court for distributing leaflets without prior authorisation from the competent authorities.

Their representative challenged that sentence on the grounds that it was unlawful under domestic law and that it violated their right to freedom of expression. He argued that section 44 of the Associations Act exempted from the obligation of prior authorisation the distribution of a political party's leaflets, as confirmed by an instruction of 30 April 1997 from the Directorate General for Security addressed to the Governor of Ankara. The appeal of A. Bilen and C. Çoruk was dismissed on 13 October 2004 by the İzmir Criminal Court, which ruled on the basis of the case file without examining their arguments about the lack of legal basis for the sanction.

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.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial) of the Convention, A. Bilen and C. Çoruk complained that they had not had a hearing and that their defence rights had been disregarded. Relying on Article 10 (freedom of expression), they complained that they had been fined for distributing a political party's leaflets without prior authorisation.

The application was lodged with the European Court of Human Rights on 20 April 2005.

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

Julia Laffranque (Estonia), *President*,
Işıl Karakaş (Turkey),
Nebojša Vučinić (Montenegro),
Paul Lemmens (Belgium),
Jon Fridrik Kjølbro (Denmark),
Stéphanie Mourou-Vikström (Monaco),
Georges Ravarani (Luxembourg),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 10 (freedom of expression)

The Court noted that, at the relevant time, two provisions governing the distribution of leaflets were in force: Article 534 of the Criminal Code, prohibiting the distribution of leaflets without authorisation, under which A. Bilen and C. Çoruk had been convicted; and section 44 of the Associations Act (Law no. 2908), releasing associations and political parties from that obligation. The Court also noted that an instruction of 30 April 1997 had been sent by the Directorate General for security to the Governor of Ankara providing for an exemption from prior authorisation for political parties. The Court noted, however, that in its reasoning the District Court had not responded to the argument of A. Bilen and C. Çoruk based on the applicability of section 44, which in their view was a special law in relation to Article 534 of the Criminal Code, because it exempted political parties from an obligation to seek prior authorisation. Consequently, the Court found that the law under which they had been convicted did not meet the requirements of sufficient precision and foreseeability for the purposes of Article 10 of the Convention, as it had not been possible to foresee that the mere distribution of a political party's leaflets was capable of entailing sanctions under Article 534 of the Turkish Criminal Code.

The Court thus held that the interference with the right to freedom of expression of A. Bilen and C. Çoruk had not been prescribed by law and that there had been a violation of Article 10 of the Convention.

Article 6 (right to a fair trial)

As A. Bilen and C. Çoruk had not had any hearing during the proceedings and thus had never had the possibility of appearing personally before the domestic courts, the Court found there had been a violation of Article 6 § 1 of the Convention.

Just satisfaction (Article 41)

The applicants did not submit a request for just satisfaction within the relevant time-limits. Accordingly, the Court considered that there was no call to award them any sum under this head.

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.