

Press Release

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Turkey : Legal provisions for prohibition of political parties differ from European standards

Strasbourg, 16.03.2009 - In its report on prohibition of political parties in Turkey, adopted during the 78th Plenary Session (13-14 March), the Venice Commission concludes that, when compared to common European practice, the situation in Turkey differs in three important respects:

1. The long list of substantive criteria for to the constitutionality of political parties, as laid down in Article 68 (4) of the Constitution and the Law on political parties, go beyond the criteria recognised as legitimate by the European Court of Human Rights (ECtHR) and the Venice Commission.
2. The procedure for initiating decisions on party prohibition or dissolution makes this initiative more arbitrary and less subject to democratic control, than in other European countries.
3. The tradition of regularly applying the rules on party closure to an extent that has no parallel in any other European country demonstrates that this is not in effect regarded as an extraordinary measure, but as a structural and operative part of the constitution.

The basic problem with the present Turkish legal provisions on party closure is that the general threshold is too low, both for initiating procedures for and for prohibiting or dissolving parties. This is in itself *in abstracto* deviating from common European democratic standards, and it can easily lead to action in breach of the ECHR, as demonstrated in many Turkish cases before the ECtHR.

In conclusion, the Venice Commission is of the opinion that the provisions of Articles 68 and 69 of the Constitution and the relevant provisions of the Law on political parties together form a system which as a whole is incompatible with Article 11 of the ECHR as interpreted by the ECtHR and the criteria adopted in 1999 by the Venice Commission and since endorsed by the Parliamentary Assembly of the Council of Europe.

Consequently, the Venice Commission considers that, although the 2001 constitutional revision was an important step in the right direction, it is still not sufficient to raise the general level of party protection in Turkey to that of the ECHR and the common European democratic standards. Further reform is necessary, both on the substantive and on the procedural side. Resuming the constitutional reform process would be the preferred option for the Venice Commission. Amending specific provisions would be another option.

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