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Politických vězňů 934/15
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FIFTH SECTION

ECHR-LE4.1aR
EH/JKR/swa

6 February 2012

Application no. 70254/10
Dělnická strana and Vandas v. the Czech Republic

Dear Sir,

I write to inform you that following a preliminary examination of the admissibility of the above application on 31 January 2012, the President of the Section to which the case has been allocated decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the application should be given to the Government of the Czech Republic and that the Government should be invited to submit written observations on the admissibility and merits of the complaint under Article 11.

You will find enclosed an information note to applicants on the proceedings after communication of an application.

The Government have been requested to submit their observations by 28 May 2012. These will be sent to you in order that you may submit written observations in reply on behalf of the applicants, together with any claim for just satisfaction under Article 41 (cf. Rule 60). **Please do not send any submissions before being asked to do so by the Court.** Any unsolicited submissions will normally not be included in the case file for consideration by the Court (Rule 38 § 1).

The Government have been requested to deal with the questions set out in the document appended to this letter (Statement of facts prepared by the Registry of the Court and Questions to the parties).

The Government have been informed that no observations are required on the other complaints made by the applicants.

The Government have also been requested to indicate within the above time-limit their position regarding a friendly settlement of this case and to submit any proposals they may

wish to make in this regard (Rule 62). The same request will be made of you when you receive their observations.

I would inform you that at this stage of the proceedings, according to Rule 34 § 3, all communications of applicants or their representatives shall as a rule be made in one of the Court's official languages, English or French.

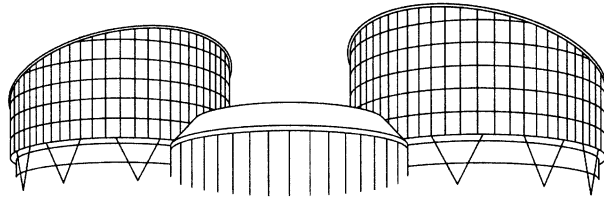
I should draw your attention to Rule 33 of the Rules of Court, according to which documents deposited with the Registry by the parties or by any third parties are to be accessible to the public, unless the President of the Section decides otherwise for the reasons set out in Rule 33 § 2. It follows that as a general rule any information contained in the documents which you lodge with the Registry, including information about identified or identifiable persons, may be accessible to the public. Moreover, such information may appear in the Court's HUDOC data base accessible via the Internet if the Court includes it in a statement of facts prepared for notification of a case to the respondent Government, a decision on admissibility or striking off, or a judgment.

Yours faithfully,



C. Westerdiek
Section Registrar

Encs: Statement of facts and Questions
Information note



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

Application no. 70254/10
DĚLNICKÁ STRANA and Tomáš VANDAS
against the Czech Republic
lodged on 25 November 2010

STATEMENT OF FACTS

THE FACTS

Dělnická Strana (“the first applicant”) was a political party registered in the Czech Republic. Tomáš Vandas (“the second applicant”) is a Czech national who was the chairman of the first applicant. He was born in 1969 and lives in Prague. The applicants are represented before the Court by Mr P. Prchal, a lawyer practising in Prague.

A. The circumstances of the case

The facts of the case, as submitted by the applicants, may be summarised as follows.

The first applicant was a political party registered in 2002.

On 5 December 2008 the Government of the Czech Republic requested the Supreme Administrative Court to dissolve the first applicant. The Government referred to the party’s close links with neo-Nazi groups and that it had repeatedly violated laws.

On 4 March 2009 the Supreme Administrative Court rejected the request holding that the Government failed to prove any illegal activities of the first applicant or its connection with neo-Nazi groups.

On 23 September 2009 the Government filed a new request with the Supreme Administrative Court to dissolve the first applicant. They maintained that the party’s program and speeches of its representatives were based on constant insults to minorities, like Roma and homosexuals aiming to create negative attitudes and hate against them. Its program and activities did not respect basic democratic principles and were threatening rights and

freedoms of others. They also maintained that the party advocated ideas of National Socialism.

On 17 February 2010 the Supreme Administrative Court dissolved the first applicant referring extensively to the case-law of the Court and principles contained therein. It reached this conclusion even though, in its view, the legal protection of political parties was high and their dissolution was possible only in exceptional circumstances. The court found that the political program of the party was xenophobic, homophobic, chauvinistic and had racist features. The program called for registering the ethnicity of the whole population in ID cards and preferential access to health care and social security for ethnic Czechs; making illegal sexual deviations, like homosexuality and discouraging immigration pursuing an aim that only foreigners who show a guarantee of full assimilation with the majority should be granted residence permit. It aimed at limiting human rights.

The court analysed various activities that could be imputable to the first applicant, including its official statements, public statements of its leadership, and to a lesser degree statements of people that the first applicant allowed to be disseminated in its publications and its public meetings.

The activities were first of all racists. Public speeches of the leaders of the first applicant, including the second applicant, were systematically aimed at inciting racial hatred and animosity towards Roma, Vietnamese, homosexuals and other minority groups. The Roma, referred to always as “Gypsies” (“cikáni”), a term that has acquired negative overtones in the Czech language and was widely replaced by neutral “Roma” (“Romové”), were described as not working, criminals, living only from State subsidies and harassing decent people. The Vietnamese were repeatedly portrayed as criminals, dealers in drugs and hostile towards the Czechs. The immigrants were at times referred to as parasites. The party aimed at a country “clean, white and without parasites and other ragtag”.

The activities were also xenophobic and chauvinistic stressing that “our country belonged to us and not to immigrants and persons of different ethnicity”.

They were, moreover, anti-Semitic. Statements repeatedly referred to the will and activities of the “chosen nation” to destroy the Czech culture and society. Speeches made at public meetings of the first applicant, referred to the danger of Zionism and the need to fight it; that Zionists controlled the world governments and Europe; that they needed to be deported to Asia; and that when Germany had freed itself 75 years ago a war had been declared on it. They also glorified Hitler and called him “the greatest European in history”. The speeches were approved by the party’s leaders and persons making them were invited to other public meetings organised by it and allowed to make similar statements.

The party’s program, activities, logo and used symbols followed the ideology of National Socialism as it existed in Germany in the late 1930s and the Second World War.

Further, the first applicant established so called Protective Force in 2008 that had the objective of protecting its leaders, public meetings and helping citizens with various problems. The court found that activities of the

Protective Force were aimed at inciting conflicts and racial hatred against Roma minority.

The party was closely linked to *Národní odpor* (“National Resistance”) an unregistered neo-Nazi group, which was calling, *inter alia*, for “murdering, destruction and annihilation of Roma, black and yellow population”. The first applicant and *Národní odpor* organised public meetings together, exchanged and copied texts from their websites and were personally interconnected in that persons standing in elections for the first applicant were also activists of *Národní odpor*. The first applicant was also in a similar way closely linked with other extremist, racist and xenophobic organizations and cooperated with extremist nationalistic organizations abroad.

The first applicant also organised numerous public meetings where laws were broken, including a meeting in Litvínov on 17 November 2008, after which several hundred of the participants marched into a neighbourhood populated mostly by Roma. The march was organised by an organisation found to be closely linked to the first applicant. The participants of the march, who were armed with stones, truncheons, knives, pyrotechnics and sticks, attacked the police who tried to protect the Roma inhabitants. The march was endorsed by the leaders of the first applicant, who also participated in it. Violent attacks on police happened at other occasions, too.

The Supreme Administrative Court concluded that the first applicant aimed at destruction of democratic foundations of the State, which contained respect for human rights and at suppressing equality of citizens, differentiating on the grounds of ethnicity and sexual orientation. It held that the first applicant posed an imminent danger to democracy even though so far only on the local level where it had been able to destabilise the situation and incite violence. The court also considered that the fact that first applicant also served as a platform for achieving political aims of various extremist, racist, anti-Semitic and neo-Nazi groups calling for violence against certain groups of persons was an intensive threat for the whole constitutional system

The court also found that the dissolution was necessary and proportionate for the protection of human rights that the party aimed to eliminate. The latter was ideologically connected with National Socialism and neo-Nazism and supported violence. Relying on Article 17 of the Convention, the court observed that the party invoked its freedom of expression and association, aiming, however, to deny human rights of defined social groups.

On 27 May 2010 the Constitutional Court dismissed the first applicant’s appeal upholding the conclusions of the Supreme Administrative Court.

The first applicant did not participate in the 2006 general elections. In the 2009 elections to the European Parliament it received 1.07 per cent of votes.

B. Relevant domestic law

1. The Constitution

Article 5 stipulates that the political system is based on free and voluntary formation of and free competition between political parties

respecting the basic democratic principles and rejecting violence as a means of asserting their interests.

2. Charter of Fundamental Rights and Freedoms

Article 20 provides that citizens have the right to form political parties and political movements and to associate in them. The exercise of this right may be limited only in cases specified by law, if it involves measures that are necessary in a democratic society for the security of the state, the protection of public security and public order, the prevention of crime, or the protection of the rights and freedoms of others.

3. Act on Political Parties (no. 424/1991)

Section 4 provides that political parties cannot be created or exist if they violate the constitution or laws or if their aim is to dismantle the democratic foundations of the State; do not have democratic articles of association or democratically elected bodies; aim at suppressing equality of citizens; or if their program or activities threaten morality, public order or rights and freedoms of citizens.

Under section 13 a political party can be dissolved by a court decision if its activity violates sections 1 to 5 of the Act. Under section 15 the Supreme Administrative Court has jurisdiction to issue such a decision upon a motion of the Government or the President of the Republic.

COMPLAINTS

1. The applicants complain under Article 6 of the Convention that the domestic decisions were not fair that they were based on inadmissible evidence and that the appeal to the Constitutional Court should have been decided by the plenary and not by a panel of three judges.

2. Further, relying on Articles 9, 10 and 11 of the Convention the applicants complain that dissolution of the first applicant violated their freedom of expression and association and that they were penalised for expressing political opinions.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicants' right to freedom of association, contrary to Article 11 of the Convention?

2. Were the acts of the applicants in the present case aimed at the destruction of rights and freedoms within the meaning of Article 17 of the Convention?