



Refusal to register political party which had not dissociated itself from former Romanian Communist Party was justified

In its decision in the case of [The Committee for the organisation and registration of the Romanian Communist Party v. Romania](#) (application no. 20401/15) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

In this case the Committee for the organisation and registration of the Romanian Communist Party (RCP) complained about the denial of its application for registration on the list of political parties.

The domestic authorities had taken the view that the RCP's programme and constitution contained vague and general terms, disregarding the social and political evolution of the country since 1989, that they allowed for totalitarian and extremist actions capable of harming national security, that they represented a danger for democratic values and that the party had not dissociated itself from the former Romanian Communist Party (former RCP).

The domestic courts' analysis of the constitution and political programme submitted by the applicant had not been unfounded. The authorities had wished to prevent a political formation which had seriously abused its position over a long period, by creating a totalitarian regime, from misusing its rights in the future, and thereby to avoid any danger to national security or to the foundations of a democratic society. This refusal had been underpinned by a wish to counter a particularly serious abuse, albeit only potential, which would have undermined the principles of the rule of law and the foundations of democracy. The interference in question had thus met a "pressing social need" and had not been disproportionate to the legitimate aims pursued: the protection of national security and the rights and freedoms of others. The denial of the applicant's registration had thus been "necessary in a democratic society" within the meaning of Article 11 of the Convention (freedom of assembly and association). The application was therefore manifestly ill-founded.

Principal facts

The applicant, the Committee for the organisation and registration of the Romanian Communist Party (RCP), complained that the Romanian authorities had denied its application to register the RCP on the list of political parties. The Bucharest County Court rejected its application on 12 May 2014. The judgment was upheld on 20 October 2014 by the Bucharest Court of Appeal. The Romanian courts found in particular that the RCP's programme and constitution contained provisions that were contrary to the law on political parties and that there was a real danger of its undermining democratic values, because the appearance of a political party which did not deny its links with the former Romanian Communist Party (former RCP) was likely to generate conflicts within society. They also took the view that the RCP's programme and constitution set out the party's basic principles in very vague and general terms, thus confirming the intention of its founders to restore the same political ideology as that of the former RCP, which had been abandoned in 1989.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 20 April 2015.

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the Committee for the organisation and registration of the Romanian Communist Party complained

about the denial of its application for registration and about the grounds given by the domestic authorities.

The Court decided to examine the complaints solely under Article 11 of the Convention.

The decision was given by a Committee of three judges, composed as follows:

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,
Iulia Antoanella **Motoc** (Romania),
Pere **Pastor Vilanova** (Andorra),

and also Ilse **Freiwirth**, *Deputy Registrar*.

Decision of the Court

[Article 11 \(freedom of assembly and association\)](#)

The Court found that the refusal to register the RCP as a political party had amounted to interference with the applicant's right to freedom of association. This interference was provided for by legislation (Laws nos. 14/2003 and 51/1991, the legal value of which had not been challenged by the applicant) and had been aimed at protecting national security and the rights and freedoms of others. Two types of argument had been put forward by the domestic courts to justify the refusal to register the RCP: formal reasons and reasons relating to the content of the constitution and political programme.

As to the formal reasons, the Court observed that there had been several irregularities, as identified by the domestic courts, in the applicant's application for registration. The legal requirements imposed for the purpose of registering the RCP had not been intended to penalise the party on account of its opinions or policies. In any event, the possibility of remedying all these deficiencies and submitting a new application for registration had been open to the applicant and did not constitute an inordinate obstacle. The Court therefore considered that the formal reasons put forward by the domestic courts to refuse the RCP's registration had been "relevant and sufficient" and "proportionate to the legitimate aim pursued".

As to the reasons relating to the content of the constitution and the political programme – reasons also used to justify the refusal to register the RCP – the Court observed that, referring to the constitution and programme in the case file, the domestic courts had considered that they contained vague and general terms, that they disregarded democratic values and the country's social and political development since 1989, that they allowed for actions of a totalitarian and extremist nature which could undermine national security, that they represented a danger to democratic values and that the party had not dissociated itself from the former RCP. Although the historical context marked by the experience of totalitarian communism in Romania or Marxist ideology could not in themselves justify the need for interference, the Court noted that the applicant in the present case had not dissociated itself concretely and entirely from the former RCP.

The applicant's right to form a communist party was not illusory (parties based on a communist doctrine already existed in Romania) and the party's constituent documents could be redrafted to bring them into line with national law. Lastly, contrary to the applicant's submission, the Court observed that the domestic courts had amply explained the reasons for their finding that the application for registration had not satisfied the conditions laid down in Laws nos. 14/2003 and 51/1991 and, moreover, had demonstrated how the RCP's programme and constitution were contrary to the country's legal order, and in particular to the fundamental principles of democracy.

In the light of all those factors, as well as the margin of appreciation afforded to States, albeit a narrow one in such matters, the Court considered that the national courts' analysis of the constitution and the political programme submitted by the applicant had not been unfounded. The

authorities had wished to prevent a political formation which had seriously abused its position over a long period, by creating a totalitarian regime, from misusing its rights in the future, and thereby to avoid any danger to national security or to the foundations of a democratic society. This refusal had been underpinned by a wish to counter a particularly serious abuse, albeit only potential, which would have undermined the principles of the rule of law and the foundations of democracy.

The national authorities had been justified in considering that the interference in question had met a “pressing social need” and had not been disproportionate to the legitimate aims pursued. The denial of the applicant’s registration had thus been “necessary in a democratic society” within the meaning of Article 11 of the Convention (freedom of assembly and association).

The application 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.