

## ANALYTICAL REVIEW

### **on the inconsistency of certain norms of the Election Code of Ukraine to the national and international legislation**

December 19, 2019, the Verkhovna Rada of Ukraine adopted the Election Code of Ukraine, which came into force on January 1, 2020.

Elections are the main instrument of control of the people of Ukraine over the activities of political and public institutions elected by citizens as well for the implementation of the development programs of state authorities, local self-government bodies.

The Constitution of Ukraine proclaims the principle of wide-ranging democracy and establishes the inherent natural right of every citizen of Ukraine to govern the state; democratic elections are the most important marker of a civilized state and society.

However, some of the norms of the Election Code of Ukraine adopted by the Ukrainian Parliament are archaic, grossly ignore and violate the human and citizen's rights and freedoms, invalidate the guarantees of democracy guaranteed by both national and international law.

In accordance with the provisions of paragraph 8 of part one of Article 104 of the Election Code of Ukraine:

“The Central Election Commission refuses to register a candidate for President of Ukraine in case:

8) the nomination of a candidate for President of Ukraine from a party which promotes communist ... totalitarian regimes, their symbolism and for which a decision on the discrepancy of its activity, name and / or symbolism is adopted in the procedure established by the Cabinet of Ministers of Ukraine. the requirements of the Law of Ukraine "On condemning the communist and national-socialist (Nazi) totalitarian regimes in Ukraine and prohibiting the propaganda of their symbolism."

Paragraph 4 of Part One of Article 159 of the Election Code of Ukraine establishes the provision that:

“The Central Election Commission refuses to register all candidates nominated by the party if:

4) nomination of candidates for deputy from a party which promotes communist ... totalitarian regimes, their symbolism and for which in accordance with the procedure established by the Cabinet of Ministers of Ukraine the decision on incompatibility of its activity, name and / or symbolism is adopted in accordance to the Law "On condemning the communist and national-socialist (Nazi) totalitarian regimes in Ukraine and prohibiting the propaganda of their symbolism."

Part 3 of Article 216 of the Election Code of Ukraine states that:

“A party organization may nominate candidates in a local election, provided that the party organization concerned is registered in the manner prescribed by law. The organization of a party in respect of which the central executive body implementing state policy on issues of state registration of legal entities, registration (legalization) of associations of citizens, public unions, other public formations, adopted the decision on the inconsistency of her or her party in the

whole activity, the name and / or symbolism to the requirements of the Law of Ukraine "On Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and prohibition of propaganda of their symbols" ... may not be a subject of the election process.

Paragraph 4 of Part One of Art. 230 of the Election Code of Ukraine states:

"The Territorial Election Commission refuses to register all candidates nominated by a party organization in the following cases:

4) nomination of candidates for deputy from the organization of a party which promotes communist ... totalitarian regimes, their symbolism and for which in accordance with the procedure established by the Cabinet of Ministers of Ukraine the decision on incompatibility of its activity, name and / or symbolism is made under the Law of Ukraine "On Condemning the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting the Propaganda of Their Symbolism."

The aforementioned provisions of the Election Code of Ukraine effectively establish a regime for restricting the suffrage of citizens of Ukraine by virtue of their affiliation with a particular political party, in particular the Communist Party of Ukraine and/or by professing their ideas and values.

### **§ I. Inconsistency of the norms (provisions) of the Election Code of Ukraine to the Constitution of Ukraine**

The Constitution guarantees the citizens of Ukraine the right to participate in the administration of state affairs, to freely choose and to be elected to state bodies and local self-government bodies in elections that are free and take place on the basis of universal, equal and direct suffrage by secret ballot.

Thus, according to part one of Article 38 of the Constitution of Ukraine:

"Citizens have the right to participate in the administration of state affairs, in the all-Ukrainian and local referendums, to freely choose and be elected to state authorities and local self-government bodies."

According to part one of Article 24 of the Constitution of Ukraine, in this right, as in other constitutional rights and freedoms, the fundamental basis of the constitutional order - equality of citizens - is manifested.

Part one of Article 71 of the Constitution of Ukraine provides:

"Elections to public authorities and local self-government bodies are free and take place on the basis of universal, equal and direct suffrage by secret ballot."

The restrictions on participation in elections established by the Election Code of Ukraine are unhidden interference with the implementation by the candidates in parliamentary, presidential and local elections their right to be elected to state bodies and local self-government bodies.

Similarly, voters are violated because they are deprived of the opportunity to vote for candidates who are subject to artificial legal barriers.

The considered provisions of the Election Code contradict the basic principles of the Constitution of Ukraine on the inadmissibility of interference with freedom of expression, remove political parties and their members from the management of state and local affairs.

It should be noted that the Constitution establishes a comprehensive list of requirements for candidates in parliamentary, presidential and local elections (Articles 76 and 103 of the Constitution of Ukraine). And this list cannot be extended a priori by the Election Code without amending the Constitution of Ukraine.

However, such a devastating regulatory disproportion to the Election Code was created. The list of requirements for candidates running in parliamentary, presidential and local elections has been illegally expanded in Ukraine, which is contrary to the Constitution of Ukraine.

Part one and two of Article 24 of the Constitution of Ukraine provides:

“Citizens have equal constitutional rights and freedoms and are equal before the law.

There can be no privileges or restrictions on race, color, political, religious or other beliefs, gender, ethnic and social background, property status, place of residence, linguistic or other characteristics”.

Article 6 of the Law “On Principles of Prevention and Combating Discrimination in Ukraine” establishes a prohibition of discrimination:

“According to the Constitution of Ukraine, generally recognized principles and norms of international law and international treaties of Ukraine, all persons, regardless of their specific characteristics, have equal rights and freedoms, as well as equal opportunities for their implementation.

Forms of discrimination by the state bodies, authorities of the Autonomous Republic of Crimea, bodies of local self-government, their officials, legal entities of public and private law, as well as natural persons specified in Article 5 of this Law shall be prohibited. ”

In view of these and other acts of national legislation, it seems unacceptable to establish undemocratic, destructive restrictions on the suffrage of citizens because of their affiliation with a particular political party or with the ideology of that party.

The above norms of the Election Code of Ukraine create a state of discrimination against citizens on the grounds of political opinion, which leads to violation of the principles of equality of citizens' constitutional rights before the law.

Extra-judicial removal of a political party, its members, representatives and supporters from the political life of the state and communities through the prohibition of their ideology and expression of ideas is a direct violation of the Constitution of Ukraine (Article 55).

The widely announced progressiveness of the new Election Code of Ukraine is a fiction. Citizens of Ukraine, as in the past, are deprived of the real right to participate in the management of state affairs, to freely choose and to be elected to state authorities and local self-government bodies.

**§ II. The norms adopted by the Parliamentary Election Code of Ukraine contravene acts of international law which, by virtue of Article 9 of the Basic Law of Ukraine, form part of the national legislation of Ukraine**

Authoritative international legal institutions adhere to a consistent and clear position, the content of which is intolerance of any restrictions on the citizens' election rights.

Article 1 of the Universal Declaration of Human Rights of 1948 states that all people are born free and equal in dignity and rights.

Article 2 of the Universal Declaration of Human Rights, states that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

No separation and discrimination of persons should be made, depending on the political, legal or international status of the country or territory to which the person belongs. And this warranty applies to everyone whether or not the territory is independent, trusting, non-constitutional or to some extent limited in its sovereignty.

The Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 is another powerful HR protection instrument. In particular, Art. 9 of the Convention states that Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Article 10 of the Convention guarantees the exercise of the right to freedom of expression - it is the freedom to hold one's own views, to receive and impart information and ideas without interference by public authorities and regardless of frontiers.

However, this article does not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. Thereby, a balance of public and private interests is achieved.

By denying candidates running in parliamentary, presidential, and local elections, the state of Ukraine actually and legally deprives a person of the right to express their views, the right to receive and impart information and ideas without undue interference by public authorities.

In accordance with the provisions of Article 11 of the Convention, everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of their interests.

By preventing the Communist Party of Ukraine, its members and supporters from participating in the elections, the State of Ukraine grossly violates the right of the Party and all supporters of the political party to freedom of association.

Thus, restricting the right of a political party, its members to nominate their candidate for election, is a manifestation of the restriction of the rights of a particular political party and its members to freedom of association.

Article 14 of the Convention provides: the enjoyment of the rights and freedoms recognized in this Convention shall be ensured without discrimination on any grounds - sex, race, color, language, religion, political or other beliefs, national or social origin, nationality or national origin. minorities, property, birth, or other grounds.

Article 1 of Protocol 12 to the Convention provides for the exercise of any statutory right without discrimination, for example, on the basis of sex, race, color, language, religion, political or other beliefs, national or social origin, national minority, property, birth or otherwise.

No one shall be discriminated against by any public authority.

Violating the right of the Communist Party of Ukraine to participate in elections, the state creates a state of discrimination against the party, its members, supporters and voters, based on political convictions.

Article 3 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms states: The Parties undertake to hold free elections at reasonable intervals by secret ballot in conditions that ensure the free expression of the people's opinion in the choice of the legislature.

By denying candidates who are running for parliamentary, presidential, and local elections, the state of Ukraine deprives them of their right to participate in the elections, which grossly ignores its direct obligation to hold free democratic elections in conditions that ensure the free expression of the people's opinion in the elections.

According to Article 25 of the International Covenant on Civil and Political Rights (ratified by the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR on October 19, 1973 No. 2148-VIII), every citizen must have without discrimination any of the discrimination referred to in Article 2, and without undue restriction, possibility:

a) to participate in the conduct of public affairs, both directly and through the mediation of freely elected representatives;

b) to vote and to be elected in the present periodic elections, which shall be held on the basis of universal suffrage and equal suffrage by secret ballot and shall ensure the freedom of expression of the voters.

In view of the above norms of the Election Code of Ukraine, in fact the election commissions are empowered to decide on the refusal of registration of candidates who run in parliamentary, presidential and local elections due to the inconsistency of the Law "On the Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and the prohibition of propaganda of their symbolism" (hereinafter - Law No. 317-VIII).

The international legal institutions have repeatedly exposed the inconsistency of the Law "On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting the Propaganda of Their Symbolism" with the international legal standards.

It should be noted that Law No. 317-VIII contains a number of ambiguities and of non-specific terms, which gives rise to numerous heterogeneous interpretations and not only allows the political party, but also the general person and citizen to confidently and clearly identify their behavior as legitimate or unlawful. And, accordingly, does not allow to correct their actions in the legal channel.

In addition to the numerous inaccuracies contained in Law No. 317-VIII, part five of Article 3 of this Law establishes that political parties, regional, city, rayon organizations or other structural entities can not be the subject of the election process if the central executive authority in area of state registration of legal entities, registration (legalization) of associations of citizens, public unions, and other public formations made the decision on noncompliance of its activities, names and/or symbols to requirements of this Law in the order determined by the Cabinet of Ministers Ukraine

At the same time, the provisions of this Law do not meet the international legal standards adopted for implementation by Ukraine.

This discrepancy was also exposed by the competent international legal institutions and confirmed in the report of the UN High Commissioner for Human Rights on the situation of human rights in Ukraine from 16 February to 15 May 2015.

In particular, the report of the United Nations High Commissioner for Human Rights states that the provisions of the Law "On the Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and the Prohibition of their Symbolism" contradict the Convention on the Protection of Human Rights and Fundamental Freedoms of 04 November 1950 and contradict the rulings of the European Court of Human Rights.

In addition, at the 105th plenary session, the European Commission for Democracy through Law (Venice Commission) and the Bureau of Democratic Institutions and Human Rights of the OSCE adopted on December 19-19, 2015, a joint interim opinion on the Law of Ukraine "On the Condemnation of the Communist and National Socialist (Nazi) totalitarian regimes in Ukraine and the prohibition of propaganda of their symbolism. "

Paragraph 111 of this interim opinion states: "Pursuant to Article 5 (5) of Law No. 317-VIII, political parties cannot be the subject of an election process if the competent central executive authority recognizes their activity as violating the Law. Such a restriction is an interference with the election of members of these parties or organizations. It also indirectly affects the right of voters (since it deprives them of the opportunity to vote for party members to whom this rule applies). It is undoubtedly an interference with the right to free elections, guaranteed by Article 3 of Protocol I of the European Convention and Article 25 of the International Covenant, and covers the right of political parties and their candidates to participate in elections (see also Article 38 of the Constitution of Ukraine)".

Paragraph 113 of this Interim Opinion states: The restriction imposed by Article 5 (5) may, for the reasons set out above, pursue legitimate goals, but it is disproportionate to those objectives, since it eliminates political parties from participating in elections without taking into account the seriousness of the violation of the Law or other law. party. As the Venice Commission and the OSCE/ODIHR have stated in the Guidelines for the Regulation of Political Parties, "the penalties should be commensurate with the violation committed." Exclusion from the electoral process is one of the harshest punishments that can be imposed on a political party. In its influence, it is similar to the prohibition or dissolution of a party, although the Venice Commission did not consider it in this context in the Guidelines on the Prohibition and Dissolution of Political Parties, since none of the countries analyzed applied this sanction.

Thus, the European Commission for Democracy through Law (Venice Commission) and the Bureau of Democratic Institutions and Human Rights in their joint interim opinion on the Law of Ukraine "On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting Propaganda of their Symbolism" pointed out the illegality of much of the provisions of Law No. 317-VIII.

**§ III. With regard to the inadmissibility of restrictions on electoral rights, the freedom of association of citizens, there has already been a systematic and well-established case-law of the European Court of Human Rights.**

As noted above, in accordance with Article 3 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, the High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot in conditions that ensure the free expression of the people's opinion in the choice of the legislature.

Ukraine ratified the Convention on July 17, 1997, thereby recognizing in its territory the binding jurisdiction of the European Court of Human Rights on all matters concerning the interpretation and application of the Convention.

According to Art. 9 of the Constitution The Convention is part of the national legislation of Ukraine and national courts adjudicate on the basis of the ECtHR jurisprudence.

Due to the aforementioned and the orientation of our country to the protection of the conventional rights and freedoms of citizens, the study of ECHR decisions made in relation to the countries of the European Union with advanced democracy is of particular importance in Ukrainian contemporary conditions.

The European Court of Human Rights has formulated a number of legal provisions for the application of this rule, noting that elections with reasonable periodicity are essential for a truly democratic society, since the preservation of fundamental human rights and freedoms is based essentially on a democratic regime.

These conditions, in the Court's view, include, in addition to the freedom of expression protected by Article 10 of the Convention, the principle of equal treatment of all citizens in the exercise of their right to vote (active suffrage) and the right to stand for election (passive suffrage).

The judgment of the European Court of Human Rights in the case of Krasnov and Skuratov vs. Russia expressly states:

"The right to vote as a candidate, guaranteed by Article 3 of Protocol No. 1 to the Convention and contained in the concept of a truly democratic regime, will be illusory if a person can be arbitrarily deprived of this right at any time."

The judgment of the European Court of Human Rights in the case of Grande Oriente d'Italia di Palazzo Giustiniani vs. Italy stated:

"However, the Court has held that freedom of association is of such great importance that it cannot be restricted at all, even with regard to the identity of the candidate for public office."

In its judgment of 30 January 1998, the case of the United Communist Party of Turkey and Others vs. Turkey, the ECtHR concluded as follows:

"The European Court has recognized that choosing a political party by its name could not, in principle, be an excuse for such a harsh measure as dissolution, in the absence of other compelling and sufficient circumstances. Accordingly, in the absence of specific evidence that by choosing the name "Communist", the United Communist Party of Turkey has chosen a policy that poses a threat to Turkish society or the Turkish state, the European Court cannot agree that on the basis of the party's name alone to be dissolved".

In the case of Podkolzina vs. Latvia, the European Court found a violation of Article 3 of Protocol No. 1 to the Convention in relation to restrictions on a person's passive suffrage and stated that the right to stand as a candidate was "an integral part of the concept of a truly democratic regime".

In the present case, the Court reiterated that the right to stand for election, which guarantees Article 3 of the First Protocol and which is an integral part of the concept of a true democratic regime, would be illusory if the person could be arbitrarily deprived at any time of this right.

Thus, while in the abstract, states do enjoy a wide margin of appreciation in determining the candidate's selection criteria, the principle of ensuring the effectiveness of rights requires that the candidate's dissatisfaction with such criteria meet a number of conditions designed to exclude arbitrary decisions.

In particular, such a conclusion should be made by a body that can provide minimum guarantees of its impartiality. The discretionary powers of such a body should also not be unlimitedly broad; they must be sufficiently clear to be restricted by the provisions of national law.

Finally, the procedure for declaring a candidate to be ineligible shall ensure that a fair and objective decision is taken and that the authority concerned is abused (*Podkolzina vs. Latvia*, N 46726/99, § 35, ECHR 2002-II) .

In its judgment of 24 November 1993 in the *Informationsverein Lentia and Others vs. Austria*, the Court described the State as the supreme guarantor of securing public pluralism. In the political sphere, this means that the state is obliged, inter alia, to hold free elections in accordance with Article 3 of Protocol No. 1 to the Convention, at reasonable intervals, by secret ballot, subject to conditions guaranteeing the freedom of expression of persons in the choice of the legislature.

This kind of expression seems impossible without the participation of many political parties representing different points of view existing among the population of the country.

By voicing differing opinions within political institutions, as well as the general public through the media at all levels of public life, political parties make an irreplaceable contribution to the political debates that underpin a democratic society.

Having analyzed the above decisions, the following conclusion can be drawn: the European Court of Human Rights holds the position that the suffrage guaranteed by Article 3 of Protocol No. 1 to the Convention is crucial to strengthening and preserving the principles of effective and efficient rule of law based on the rule of law and equality of all citizens in the exercise of their rights.



<p align="center"><b>Norms Of the Election Code of Ukraine</b></p>	<p align="center"><b>Norms The Constitution of Ukraine violated by the Election Code of Ukraine</b></p>	<p align="center"><b>Norms of the International instruments violated by the Election Code of Ukraine</b></p>	<p align="center"><b>Juresprudence of the European Court of Human Rights violated by the Election Code of Ukraine</b></p>
<p><b>paragraph 8 of part one of Article 104 of the Election Code of Ukraine:</b> “The Central Election Commission refuses to register a candidate for President of Ukraine in case: 8) the nomination of a candidate for President of Ukraine from a party which promotes communist ... totalitarian regimes, their symbolism and for which a decision on the discrepancy of its activity, name and / or symbolism is adopted in the procedure established by the Cabinet of Ministers of Ukraine. the requirements of the Law of Ukraine "On condemning the communist and national-socialist (Nazi) totalitarian regimes in Ukraine and prohibiting the propaganda of their symbolism.".</p> <p><b>Paragraph 4 of Part One of Article 159</b> “The Central Election Commission refuses to register all candidates nominated by the party if: 4) nomination of candidates for deputy from a party which promotes communist ... totalitarian regimes, their</p>	<p><b>Parts 1,2 Art. 24:</b> Citizens shall have equal constitutional rights and freedoms and shall be equal before the law. There shall be no privileges or restrictions based on race, skin colour, political, religious, and other beliefs, gender, ethnic and social origin, property status, place of residence, linguistic or other characteristics.</p> <p><b>Parts 1,2 Art. 36:</b> Citizens of Ukraine shall have the right to freedom of association into political parties and public organisations for exercising and protecting their rights and freedoms and for satisfying their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order, protection of public health, or protection of rights and freedoms of other persons. Political parties in Ukraine shall promote the formation and expression of political will of citizens and shall participate in elections. Only citizens of Ukraine may be members of political parties. Restrictions on membership</p>	<p><b>Art. 10 ECHR</b> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.</p> <p><b>Art. 11 ECHR</b> 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.</p> <p><b>Art. 14 ECHR</b> The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</p> <p><b>Art. 3 of the 1<sup>st</sup> Protocol to the ECHR</b> The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot,</p>	<p><b>Krasnov and Skuratov vs. Russia</b>  The right to vote as a candidate, guaranteed by Article 3 of Protocol No. 1 to the Convention and contained in the concept of a truly democratic regime, will be illusory if a person can be arbitrarily deprived of this right at any time.</p> <p><b>Grande Oriente d'Italia di Palazzo Giustiniani) vs. Italy:</b>  Freedom of association is of such great importance that it cannot be restricted at all, even with regard to the identity of the candidate for public office .</p> <p><b>The United Communist Party of Turkey and Others vs. Turkey</b>  The European Court has recognized that choosing a political party by its name could not, in principle, be an excuse for such a harsh measure as dissolution, in the absence of other compelling and sufficient circumstances. Accordingly, in the absence of specific evidence that by choosing the name "Communist", the United</p>

<p>symbolism and for which in accordance with the procedure established by the Cabinet of Ministers of Ukraine the decision on incompatibility of its activity, name and / or symbolism is adopted in accordance to the Law "On condemning the communist and national-socialist (Nazi) totalitarian regimes in Ukraine and prohibiting the propaganda of their symbolism."</p> <p><b>Part 3 of Article 216</b>  "A party organization may nominate candidates in a local election, provided that the party organization concerned is registered in the manner prescribed by law. The organization of a party in respect of which the central executive body implementing state policy on issues of state registration of legal entities, registration (legalization) of associations of citizens, public unions, other public formations, adopted the decision on the inconsistency of her or her party in the whole activity, the name and / or symbolism to the requirements of the Law of Ukraine "On Condemnation of the Communist and National Socialist (Nazi) Totalities They regimes in Ukraine and prohibition of their propaganda of their</p>	<p>in political parties shall be determined exclusively by this Constitution and laws of Ukraine.</p> <p><b>Part 1 Art. 38:</b>  Citizens shall have the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, to freely elect and to be elected to the bodies of State power and local self-government.</p> <p><b>Article 71.</b>  Elections to the State and local self-government bodies shall be free and shall be held on the basis of universal, equal and direct suffrage by secret ballot. Voters shall be guaranteed the free expression of their will.</p> <p><b>Parts 2, 3 Art.76:</b>  A citizen of Ukraine having attained to the age of twenty-one as of the day of elections, having the right to vote, and having resided in the territory of Ukraine for the past five years, may be elected people's deputy of Ukraine.  A citizen who has a criminal record of committing an intentional crime shall not be elected to the Verkhovna Rada of Ukraine if the record has not been nullified in compliance with a procedure established by law.</p> <p><b>Part 2 Art. 103:</b>  A citizen of Ukraine, having attained the age of thirty-five, having the right to vote, residing in Ukraine</p>	<p>under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.</p> <p><b>Art. 1 Protocol № 12 to the ECHR</b>  1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.  2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.</p> <p><b>Article 25 of the International Covenant on Civil and Political Rights:</b>  Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:  (a) To take part In the conduct of public affairs, (directly or through freely chosen representatives;  (b) To vote and to be elected at genuine, periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;</p>	<p>Communist Party of Turkey has chosen a policy that poses a threat to Turkish society or the Turkish state, the European Court cannot agree that on the basis of the party's name alone to be dissolved</p> <p><b>Informationsverein Lentia and Others vs. Austria</b></p> <p>The State is the supreme guarantor of securing public pluralism. In the political sphere, this means that the state is obliged, inter alia, to hold free elections in accordance with Article 3 of Protocol No. 1 to the Convention, at reasonable intervals, by secret ballot, subject to conditions guaranteeing the freedom of expression of persons in the choice of the legislature.</p> <p>This kind of expression seems impossible without the participation of many political parties representing different points of view existing among the population of the country.</p> <p>By voicing differing opinions within political institutions, as well as the general public through the media at all levels of public life, political parties make an irreplaceable contribution to the political debates that underpin a democratic society.</p>
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<p>symbols" ... may not be a subject of the election process.</p> <p><b>Paragraph 4 of Part One of Art. 230</b></p> <p>“The Territorial Election Commission refuses to register all candidates nominated by a party organization in the following cases:</p> <p>4) nomination of candidates for deputy from the organization of a party which promotes communist ... totalitarian regimes, their symbolism and for which in accordance with the procedure established by the Cabinet of Ministers of Ukraine the decision on incompatibility of its activity, name and / or symbolism is made under the Law of Ukraine "On Condemning the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting the Propaganda of Their Symbolism."</p>	<p>for the past ten years prior to the day of elections, and having command of the state language, may be elected the President of Ukraine.</p>		<p><b>Podkolzina vs. Latvia</b></p> <p>The European Court found a violation of Article 3 of Protocol No. 1 to the Convention in relation to restrictions on a person's passive suffrage and stated that the right to stand as a candidate was "an integral part of the concept of a truly democratic regime".</p> <p>The right to stand for election, which guarantees Article 3 of the First Protocol and which is an integral part of the concept of a true democratic regime, would be illusory if the person could be arbitrarily deprived at any time of this right.</p> <p>Thus, while in the abstract, states do enjoy a wide margin of appreciation in determining the candidate's selection criteria, the principle of ensuring the effectiveness of rights requires that the candidate's dissatisfaction with such criteria meet a number of conditions designed to exclude arbitrary decisions.</p> <p>In particular, such a conclusion should be made by a body that can provide minimum guarantees of its impartiality. The discretionary powers of such a body should also not be unlimitedly broad; they must be sufficiently clear to be restricted by the provisions of national law</p>
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