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Turkey: Constitutional Court rules in favour of closure of pro-Kurdish Democratic Society Party

Amnesty International expressed grave concern regarding the closure of the Democratic Society Party (DTP) under laws that fail to uphold international standards.

On 11 December, the 11 judges of the Constitutional Court ruled unanimously in favour of closing the party on the grounds that the party is a focus of activities against the independence of the state, its indivisible integrity within its territory and nation. In addition, the Court also ruled that 37 members of the party be banned from politics for a period of five years. Individuals banned from politics included two elected members of parliament, the DTP co-chair Ahmet Türk MP and Aysel Tuğluk MP for Diyarbakır in addition to four elected regional mayors and other party officials and members.

The case was launched on 16 November 2007 when the Supreme Court of Cassation Chief Prosecutor presented the application to the Constitutional Court. In July 2008 the ruling Justice and Development Party narrowly avoided closure when a complaint that the party was a focus of anti-secular activities failed to receive the support of the required majority of judges. Political parties in Turkey have frequently been closed by rulings of the Constitutional Court, many of which being political parties promoting Kurdish identity.

In March 2009 the Venice Commission of the Council of Europe issued an opinion stating that constitutional and legal provisions relevant to the prohibition of political parties in Turkey failed to uphold the minimum standards required under Article 11 of the European Convention on Human Rights (freedom of assembly and association). In its opinion the Commission noted that legal provisions regarding the prohibition of political parties in Turkey allow closure cases to be brought against almost any party whose programme advocates for changes to the constitutional model regardless of whether it is through the threat of violence or peaceful democratic means. The European Court of Human Rights has previously issued a series of judgments finding Turkey to have violated the Convention in relation to the closure of political parties.

Background

The Democratic Society Party was formed in 2005 following a closure case being brought against the Democratic People's Party (DEHAP). The party currently has 21 members in the national parliament following elections in 2007, in addition to numerous elected local officials.

The prosecution was brought for conduct contrary to the rules set out for political parties in Article 68/4 of the Constitution which reads:

“The statutes and programmes, as well as the activities of political parties shall not be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the

democratic and secular republic; they shall not aim to protect or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime.”

The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe's advisory body on constitutional matters. It adopted its Opinion on the Constitutional and Legal Provisions relevant to the Prohibition of Political Parties in Turkey during its 78th Plenary Session in March 2009.

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