

Aziz v Cyprus (Application no. 69949/01)

1) Reference Details

Jurisdiction: The European Court of Human Rights

Date of Decision: 22 December 2004

Link to full case:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=699710&portal=hbk&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

2) Facts

The applicant, Mr Ibrahim Aziz, was a Cypriot national. On 30 January 2001 he applied to the Ministry of the Interior, requesting to be registered on the electoral roll in order to exercise his voting rights in the parliamentary election of 27 May 2001. His request was refused on the basis that, by virtue of Article 63 of the Constitution, members of the Turkish-Cypriot community could not be registered on the Greek-Cypriot electoral roll. On 27 April 2001 the applicant lodged an appeal with the Supreme Court, relying on Article 3 of Protocol No. 1 of the European Convention on Human Rights. He submitted that, following the dissolution of the Communal Chambers, the Cypriot government had failed to set up two electoral lists in order to protect the electoral rights of members of both communities. His appeal was dismissed.

3) Law

International Law

- Article 3 of Protocol No. 1 of the European Convention on Human Rights
- Article 14 of the European Convention of Human Rights (right to non-discrimination)

4) Legal Arguments

The Applicant

The applicant argued that though the Cypriot government had passed a variety of laws upholding the human rights of citizens since the constitutional breakdown in 1964, none of these laws contained provisions for safeguarding the rights of the Turkish Cypriots. Due to this, Turkish Cypriots living in the free area, of which the applicant was one, had not been able to exercise their fundamental right to vote or stand as candidates in parliamentary elections since 1964. Although the Cypriot authorities had been aware of the disenfranchisement of that part of the population, they had not taken steps to deal with the situation. In relation to the judgement of the Supreme Court, the applicant alleged that because of his Turkish Cypriot national origins, the Court had not applied the law of necessity to his case as it had done in others. On this basis he claimed that he had been deprived of his right to vote on the basis of national origin.

The State

The State stressed that there was no obligation under Article 3 of Protocol No. 1 to introduce a specific system for appointing the legislature and that Contracting States had a

wide margin of appreciation in this respect. Regarding Article 14, the Government submitted that no issue arose because the applicant was not in a comparable situation to voters who were members of the Greek community and who voted as such for the candidates from their community.

5) Decision

The Court found a violation of Article 14 of the Convention in conjunction with Article 3 of Protocol No. 1. Following previous judgements the Court noted that a difference of treatment must have a reasonable and objective justification if it is to be deemed non-discriminatory. The Court opined that the difference in treatment complained of by the applicant resulted from the fact that he belonged to a Turkish Cypriot minority community, because of which he was deprived of his right to participate in elections. By this reasoning the Court found a violation of Article 14.