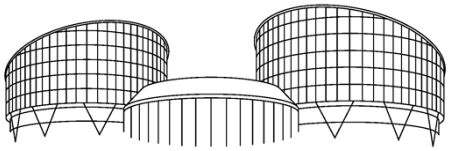

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF PARTEI DIE FRIESEN v. GERMANY

(Application no. 65480/10)

JUDGMENT

STRASBOURG

28 January 2016

FINAL

28/04/2016

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Partei Die Friesen v. Germany,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Ganna Yudkivska, *President,*
Angelika Nußberger,
André Potocki,
Faris Vehabović,
Síofra O'Leary,
Carlo Ranzoni,
Mārtiņš Mits, *judges,*

and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 5 January 2016,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 65480/10) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the political party "Partei Die Friesen" ("the applicant party"), on 1 November 2010.

2. The applicant party was represented by Mr Wilhelm Bosse, a lawyer practising in Osnabrück. The German Government ("the Government") were represented by their Agent, Mr H. J. Behrens, of the Federal Ministry of Justice.

3. The applicant party alleged, in particular, that it was discriminated against by the 5% threshold applied at the parliamentary elections in the *Land* of Lower Saxony.

4. On 15 May 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant party was founded in 2007 and is based in Aurich. It claims to represent the interests of the Frisian minority in Germany but limits its political activities to the *Land* of Lower Saxony (*Niedersachsen*) where the East Frisians traditionally settle. The applicant party estimates the number of people of Frisian origin within the territory of Lower Saxony at

about 100,000 out of the total population of approximately 7,900,000. The Frisians have their own language and cultural identity which is similar among the West Frisians in the Netherlands and the North Frisians in the *Land* of Schleswig-Holstein, while the East Frisians in Lower Saxony have mainly stopped speaking their language.

6. Under the Electoral Law of Lower Saxony (*Niedersächsisches Landeswahlgesetz*, see relevant domestic law, paragraph 16 below), parliamentary seats – apart from those seats attributed to the candidates obtaining the majority of the votes in their constituency – are allocated under the *D'Hondt* system of proportional representation. Under section 33 § 3 of the Electoral Law, seats are attributed only to parties which obtain a minimum threshold of 5% of the total of votes validly cast. This threshold is also included in Article 8 § 3 of the Lower Saxonian Constitution (see relevant domestic law, paragraph 15 below).

7. By letter of 27 September 2007 to the Prime Minister of Lower Saxony and by letter of 17 December 2007 to the President of the Lower Saxony Parliament, the applicant party asked to be granted an exemption from the minimum threshold for the upcoming elections. The request was refused.

8. In the elections of 27 January 2008, the applicant party attained an overall total of 10,069 votes, amounting to approximately 0.3% of all votes validly cast. Irrespective of the minimum threshold, the number of votes received would not have been sufficient to obtain a parliamentary mandate.

9. On 6 March 2008 the applicant party lodged an objection against the validity of the election result. The applicant party submitted, in particular, that it represented the interests of the Frisian people residing in Lower Saxony. The Frisian people formed a national minority within the meaning of the Framework Convention for the Protection of National Minorities ("the Framework Convention", ETS No. 157, see Council of Europe documents, paragraphs 20-23 below). The applicant party complained, in particular, that the minimum threshold resulted in their factual exclusion from participating in the parliamentary elections and amounted to discriminatory treatment *vis-à-vis* other small political parties which were, at least theoretically, capable of reaching that threshold. The applicant party further relied on Article 14 in conjunction with Article 3 of Protocol No. 1 to the Convention.

10. On 9 May 2008, the Election Supervisor of Lower Saxony (*Landeswahlleiter*), jointly with the Ministry of the Interior, submitted written comments on the objection. They considered, firstly, that it was doubtful whether the group of Frisians qualified as a national minority. Under the declaration submitted by the German Government when signing the Framework Convention, only the Danes of German citizenship and members of the Sorbian people with German citizenship were recognised as national minorities in the Federal Republic of Germany. Conversely, the

declaration merely stated that the Framework Convention also applied to the ethnic group of Frisians with German citizenship. It was thus clear from the wording of the declaration that the Frisians did not qualify as a national minority. Even assuming that the ethnic group of Frisians had the status of a national minority, this did not necessarily entail the obligation to exempt the applicant party from obtaining the minimum threshold of 5% of the votes. There was no such obligation under the Basic Law or under the constitution of the *Land* of Lower Saxony or under the Framework Convention. Neither could such an obligation be derived from section 6 § 6 of the Federal Electoral Law (*Bundeswahlgesetz*), as the *Länder* were competent to pass their own electoral laws without being bound by the Federal Law. The privileges enjoyed by the Danish Minority Party in the *Land* of Schleswig-Holstein did not allow any further conclusions, as the protection and promotion of the Danish minority was prescribed by the constitution of the respective *Land*. Finally, and again assuming the minority status of the ethnic group of Frisians, it was questionable whether the applicant party would qualify as the party of the Frisian national minority. The assessment of this question did not only depend on the party's vision of itself, but on an overall assessment of all factual and legal circumstances.

11. On 2 February 2009 the Parliamentary Committee on the Scrutiny of Elections (*Wahlprüfungsausschuss*) held a public hearing on the applicant party's objection.

12. On 19 February 2009 the Lower Saxony Parliament rejected the applicant party's objection as being unfounded. Relying on the submissions made by the Election Supervisor jointly with the Ministry of the Interior, the Parliament considered that an obligation to exempt the applicant party from the minimum threshold could neither be derived from the Constitution of Lower Saxony, nor from Federal or International Law. It followed that the applicant's objection was unfounded.

13. On 6 April 2009 the applicant lodged a complaint with the Constitutional Court of Lower Saxony (*Niedersächsischer Staatsgerichtshof)*. The applicant party requested the Constitutional Court to quash the parliamentary decision of 19 February 2009 and to declare the result of the elections held on 27 January 2008 invalid; or, alternatively, to declare section 33 § 3 of the Electoral Law unconstitutional.

14. On 30 April 2010 the Constitutional Court of Lower Saxony rejected the applicant party's complaint as being unfounded. The Constitutional Court observed, at the outset, that the relevant provisions did not allow for an exemption from the minimum threshold for national minorities. The Constitutional Court further considered that the minimum threshold interfered with the principle of equality of the vote. This interference was justified because it pursued the legitimate aim of safeguarding the functioning of the elected parliament. Parliamentary work within a

democracy necessitated that the parliaments remain able to take decisions and that they were not inhibited in their work by the participation of splinter parties. The Constitutional Court further referred to the case-law of the Federal Constitutional Court regarding the 5% minimum threshold. There was no obligation under the Basic Law to exempt parties of national minorities from the 5% threshold. It was true that certain electoral laws provided for such exemptions. This was, in particular, the case with the Federal Electoral Law, which provided an exemption for parties of national minorities, and with the Electoral Laws of the *Länder* of Brandenburg and Schleswig-Holstein, providing for exemptions for the parties of the Sorbian and the Danish minorities, respectively. However, both *Länder* provided special rights for national minorities in their respective constitutions. No such provisions could be found in the Constitution of the *Land* of Lower Saxony. The Federal Constitutional Court had declared the respective provision in the Federal Electoral Law constitutional, even though the Basic Law did not contain special rights for national minorities. However, the Federal Constitutional Court had also emphasised that the legislator enjoyed a margin of appreciation in this respect. The Lower Saxony Constitutional Court finally considered that the alleged right could be derived neither from the European Convention on Human Rights nor from the Framework Convention. The European Convention on Human Rights did not contain any special rights for national minorities. Relying on the wording of Article 15 of the Framework Convention, the court considered that this provision did not contain any obligation to exempt national minorities from the minimum threshold, but left the question undecided as to how to create the conditions necessary for the effective participation of persons belonging to national minorities in public affairs. It followed that the contracting parties enjoyed a wide margin of appreciation in this respect. In Germany, participation of national minorities in public life was already guaranteed by the constitutional system. By including the 5% threshold in the Constitution of the *Land* of Lower Saxony without providing for an exemption, the Constitutional Assembly had given precedence to the functioning of the parliament over granting privileges to national minorities. Accordingly, the Lower Saxony Constitutional Court did not find it necessary to determine whether the Frisians qualified as a national minority and whether the applicant party qualified as the political party of this national minority.

II. RELEVANT DOMESTIC LAW

15. Article 8 § 3 of the Constitution of the *Land* of Lower Saxony provides:

Parliamentary Elections

"Electoral proposals which obtained less than 5% of the votes cast do not obtain a parliamentary mandate."

16. Section 33 § 3 of the Electoral Law of Lower Saxony reads as follows:

"When attributing seats to the electoral lists, only those parties are taken into account which obtained at least 5% of the validly cast votes"

17. Section 3 § 1 of the Electoral Law of the *Land* of Brandenburg (*Wahlgesetz für den Landtag Brandenburg*) provides:

Election of Parliamentarians from Electoral Lists

"When attributing seats to the electoral lists, only those parties, political groups or joint electoral lists are taken into account which obtained at least 5% of the validly cast votes ...The provisions on the minimum threshold under the first sentence do not apply to the electoral lists submitted by Sorbian political parties, political groups or joint electoral lists ..."

18. Section 3 § 1 of the Electoral Law of the *Land* of Schleswig-Holstein provides:

"Seats are allocated under the system of proportional distribution among all parties which have submitted an approved electoral list ... provided that they ... obtain an overall result of at least 5% of the validly cast votes. This restriction does not apply for parties of the Danish minority."

19. Section 6 § 6 of the Federal Electoral Law provides:

"When attributing seats to the electoral lists, only those parties are taken into account which obtained at least 5% of the validly cast votes. The first sentence does not apply to electoral lists submitted by national minority parties."

III. COUNCIL OF EUROPE DOCUMENTS

20. Article 15 of the Framework Convention (ETS No. 157), which entered into force on 1 February 1998, reads as follows:

"The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them."

21. A declaration submitted by the German Government at the time of signature, on 11 May 1995, and renewed in the instrument of ratification, deposited on 10 September 1997, reads as follows:

"The Framework Convention contains no definition of the notion of national minorities. It is therefore up to the individual Contracting Parties to determine the groups to which it shall apply after ratification. National Minorities in the Federal Republic of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and Roma of German citizenship."

22. Excerpt from the commentary adopted by the Advisory Committee on the Framework Convention on 27 February 2008:

ii. Design of electoral systems at national, regional and local levels

"80. The participation of persons belonging to national minorities in electoral processes is crucial to enable minorities to express their views when legislative measures and public policies of relevance to them are designed.

81. Bearing in mind that State Parties are sovereign to decide on their electoral systems, the Advisory Committee has highlighted that it is important to provide opportunities for minority concerns to be included on the public agenda. This may be achieved either through the presence of minority representatives in elected bodies and/or through the inclusion of their concerns in the agenda of elected bodies.

82. The Advisory Committee has noted that when electoral laws provide for a threshold requirement, its potentially negative impact on the participation of national minorities in the electoral process needs to be duly taken into account. Exemptions from threshold requirements have proved useful to enhance national minority participation in elected bodies."

23. In its Report of 15 March 2005 on electoral rules and affirmative action for national minorities' participation in the decision-making process in European countries, the European Commission for Democracy through Law ("the Venice Commission"), having analysed the practices of certain member States, recommended five specific measures to promote the representation of minorities. Two of the measures concerned have a bearing on the question of electoral thresholds:

"68.

...

d. Electoral thresholds should not affect the chances of national minorities to be represented.

e. Electoral districts (their number, the size and form, the magnitude) may be designed with the purpose to enhance the minorities' participation in the decision-making processes."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION READ IN CONJUNCTION WITH ARTICLE 3 OF PROTOCOL NO. 1

24. The applicant party complained that the application of the 5% threshold to it in the 2008 parliamentary elections in Lower Saxony violated its right to participate in elections without being discriminated against, as provided in Article 14 of the Convention in conjunction with Article 3 of Protocol No. 1, which reads as follows:

Article 14

"The enjoyment of the rights and freedoms set forth in [the] 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."

Article 3 of Protocol No. 1

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

25. The Government contested that argument.

A. The applicant party's submissions

26. The applicant party asserted that it represented the Frisian people as a whole. It stressed that in Lower Saxony, the number of Frisians was so low that the applicant party could not meet the 5% threshold requirement at parliamentary elections. In its view, it was the threshold which represented an interference under the Convention, and not the issue of exemption. The applicant party disagreed that the abolition of the threshold would harm governmental stability. In 2008 only one additional party would have been awarded seats in the parliament of the *Land* if the threshold had been abolished. Taking into account the low number of minority voters, and that no other minorities had settled in Lower Saxony, exempting the applicant party as the only minority party could not trouble governmental stability.

27. The application of the threshold to the applicant party discriminated against the applicant party in its right to stand for elections in the sense that it could not be compared to other parties which were not minority parties as they did not represent minorities. Referring to the case-law of the Court in *Thlimmenos v. Greece* ([GC], no. 34369/97, § 44, 6 April 2000) the applicant party stressed that the right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States, without an objective and reasonable justification, fail to treat

differently persons whose situations are significantly different. The application of the threshold to the applicant party was moreover disproportionate because the aim of the threshold – governmental stability – would not have been endangered by an additional party winning seats in parliament while, on the other hand, the threshold effectively ruled out any political participation of the Frisian people as a group in the legislature. In addition, national minorities were exempted from the respective thresholds in the *Länder* of Schleswig-Holstein and Brandenburg as well as under Federal electoral law.

B. The Government's submissions

28. The Government accepted that the Frisians are a national minority within the meaning of the Framework Convention. They submitted that no legal distinction could be derived from the fact that in the German Government's declaration upon signature of the Framework Convention (see above, paragraph 21) the Frisians were called an "ethnic group" whereas the Danes and Sorbs were recognised as "national minorities". The use of different terms had been solely due to the Frisians' explicit request on account of the negative connotations sometimes associated with the term "minority" at that time. However, referring to the fewer than 100 members of the applicant party, and the lack of evidence to support the party's claim to representation, the Government disputed that the applicant party represented the Frisian people, not even the East Frisians in Lower Saxony.

29. Even assuming representation by the applicant party, the Government, referring to the case-law of the Court in *Mathieu-Mohin and Clerfayt v. Belgium* (2 March 1987, Series A no. 113) and *Yumak and Sadak v. Turkey* ([GC], no. 10226/03, ECHR 2008), denied any unjustified discrimination on account of the 5% threshold and its application to the applicant party. The applicant party was not treated differently to any other political party which had to accept the threshold. Referring to the decision of the former Commission in the case of *Magnago and Südtiroler Volkspartei v. Italy* of 15 April 1996 (no. 25035/94) the Government stressed that the Convention did not require positive discrimination. Lastly, in the Government's view, no obligation to exempt national minority parties from the threshold could be derived from the Framework Convention.

C. Assessment by the Court

1. Applicability

30. The Court reiterates that Article 14 only complements the other substantive provisions of the Convention and the Protocols. It has no independent existence since it has effect solely in relation to "the enjoyment

of the rights and freedoms" safeguarded by those provisions. Although the application of Article 14 does not presuppose a breach of those provisions – and to that extent it is autonomous – there can be no room for its application unless the facts at issue fall within the ambit of one or more of the latter (see, among many other authorities, *Zaunegger v. Germany*, no. 22028/04, § 35, 3 December 2009).

31. The Court must therefore, first of all, determine whether Article 3 of Protocol No. 1 is applicable in the instant case.

32. The Court, in this respect, reaffirms that Article 3 of Protocol No. 1 is applicable not only to national legislatures but also to election to the legislatures of the German *Länder* as law-making bodies (see *Timke v. Germany*, no. 27311/95, former Commission decision of 11 September 1995).

33. Furthermore, Article 3 of Protocol No. 1 implies individual rights, including the right to vote and to stand for election (see, among other authorities, *Mathieu-Mohin and Clerfayt v. Belgium*, cited above, §§ 46-51; *Ždanoka v. Latvia* [GC], no. 58278/00, § 102, ECHR 2006-IV and *Yumak and Sadak v. Turkey*, cited above, § 109).

34. The Court observes that the applicant party, in the parliamentary elections at issue, attained merely 0.3% of the overall votes. Accordingly, the applicant party, quite irrespective of the minimum threshold, did not receive sufficient votes to obtain a parliamentary mandate. However, the Court accepts the applicant party's argument that the minimum threshold had a chilling effect on potential voters who might not have wanted to "waste" their votes on a political party unable to pass the threshold. It follows that the application of the 5% threshold interfered with the applicant party's right to stand for election.

35. The Court therefore finds that the facts of the instant case fall within the scope of Article 3 of Protocol No. 1 and that, accordingly, Article 14 is applicable.

2. Compliance

36. The Court considers that the minimum threshold of 5% as such does not raise an issue under Article 14 taken in conjunction with Article 3 of Protocol No. 1 (see *Partija "Jaunie Demokrāti" and Partija "Mūsu Zeme" v. Latvia* (dec.), nos. 10547/07 and 34049/07, 29 November 2007). The question to be addressed in the instant case is, however, whether the application of the threshold to the applicant party has to be regarded as contrary to Article 14 taken in conjunction with Article 3 of Protocol No. 1.

37. The Court has established in its case-law that discrimination means treating differently, without an objective and reasonable justification, persons in relevantly similar situations (see *Willis v. the United Kingdom*, no. 36042/97), § 48, ECHR 2002-IV, and *Okpisz v. Germany*, no. 59140/00, § 33, 25 October 2005). However, Article 14 does not prohibit a member

State from treating groups differently in order to correct "factual inequalities" between them; indeed, in certain circumstances a failure to attempt to correct inequality through different treatment may in itself give rise to a breach of the Article (see *Thlimmenos v. Greece* [GC], cited above, § 44; *Stec and Others v. the United Kingdom* [GC], no. 65731/01, § 51, ECHR 2006-VI; *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, § 175, ECHR 2007-IV).

38. Turning to the instant case, the Court observes that it is undisputed that the applicant party has not been treated differently to any other small political parties standing for elections in Lower Saxony.

39. In so far as the applicant party claims that its situation is analogous to that of the parties of the Danes and the Sorbs standing for election in two other *Länder*, Schleswig-Holstein and Brandenburg, which privilege minority parties, the Court observes that under Federal election law all national minority parties enjoy the same privileges in Federal elections. Regarding participation in elections of the *Länder*, the Court notes that the Lower Saxony Constitutional Court found in the instant case (see paragraph 14 above) that there was no obligation under constitutional law applicable in Lower Saxony to exempt parties of national minorities from electoral thresholds regarding elections in the *Land*. In the German Federal system the *Länder* have sovereignty to regulate certain matters which they make use of in different ways. The decision of *Länder* legislatures to include exemptions for national minority parties in their electoral law therefore does not have any implications for national minority parties outside their jurisdiction. It follows that the applicant party's situation is not analogous to that of the parties of the Danes and the Sorbs because the latter stand for elections in other *Länder* and not in Lower Saxony.

40. Furthermore, the Court has to analyse if, as the applicant party claimed, the situation of the applicant party is significantly different from that of other political parties in Lower Saxony, which, in regard to the case-law of the Court (see *Thlimmenos v. Greece,* cited above, § 44), would possibly call for different treatment. The Court accepts the applicant party's main argument that the number of Frisians in Lower Saxony is not high enough to reach the electoral threshold even if all Frisian voters were to cast their vote for the applicant party. However, the Court observes that the situation of the applicant party in this respect is basically similar to the situation of other parties which concentrate on the representation of numerical small interest groups defined by criteria such as age, religious belief and profession. The disadvantages in the electoral process is therefore based on the chosen concept of only representing the interests of a small part of the population, for which a Contracting State in general cannot be held responsible.

41. The Court has found that the forming of an association in order to express and promote its identity may be instrumental in helping a minority

to preserve and uphold its rights (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 93, ECHR 2004-I). Therefore it remains to be determined whether the applicant party has been discriminated against in its capacity as a party representing a national minority, that is whether, under the Convention, national minority parties should be treated differently to other special interest parties.

42. The Court reiterates that the former Commission found, in a comparable case concerning the rights of the German-speaking minority in Northern Italy, that the Convention did "not compel the Contracting Parties to provide for positive discrimination in favour of minorities" (see *Magnago and Südtiroler Volkspartei v. Italy*, cited above).

43. The Court notes, however, that this decision was taken before the entry into force of the Framework Convention on 1 February 1998. The Court further observes that the Framework Convention, while acknowledging the margin of appreciation enjoyed by the State in electoral matters, puts an emphasis on the participation of national minorities in public affairs (see Article 15 of the Framework Convention, paragraph 20 above). However, the possibility of exemption from the minimum threshold is merely presented as one of many options in this context. The Advisory Committee on the Framework Convention expressed the opinion that the potentially negative impact of minimum thresholds on the participation of national minorities in the electoral process needed to be duly taken into account. It considered that exemptions from threshold requirements had proved useful for enhancing national minority participation in elected bodies (see the commentary adopted by the Advisory Committee on the Framework Convention on 27 February 2008, § 82, Council of Europe documents, paragraph 22 above). The position of the Venice Commission is likewise that electoral thresholds should not affect the chances of national minorities to be represented (see Council of Europe documents, paragraph 23 above). However, as the Lower Saxony Constitutional Court observed in the instant case (see paragraph 14 above), no clear and binding obligation derives from the Framework Convention to exempt national minority parties from electoral thresholds. The States party to the Framework Convention enjoy a wide margin of appreciation in how to approach the Framework Convention's aim of promoting the effective participation of persons belonging to national minorities in public affairs as stipulated in Article 15. Consequently, the Court takes the view that, even interpreted in the light of the Framework Convention, the Convention does not call for a different treatment in favour of minority parties in this context.

44. There has accordingly been no violation of Article 14 of the Convention read in conjunction with Article 3 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 13 IN CONJUNCTION WITH ARTICLE 14 OF THE CONVENTION AND ARTICLE 3 OF PROTOCOL NO. 1

45. The applicant party complains under Article 13, in conjunction with Article 14 of the Convention and Article 3 of Protocol No. 1, of having been denied an effective remedy against the violation of its Convention rights. The applicant party complains, in particular, that the Lower Saxony Parliament lacked impartiality and independence in proceedings regarding the validity of the electoral result. Furthermore, in the view of the applicant party, it did not receive a fair hearing in the proceedings before the Lower Saxony Constitutional Court, which had decided its case without an oral hearing and without a comprehensive examination of the facts of the case

46. The Government contested that argument.

47. The Court notes that the applicant party had the possibility to appeal to the Lower Saxony Constitutional Court, which adjudicated the case on the basis of the written submissions made by the applicant party and the comments submitted by the Election Supervisor. It does not appear that this remedy was not effective.

48. In so far as the applicant party argued that the proceedings before the Constitutional Court did not comply with the prerequisites laid down in Article 6 § 1 of the Convention, *inter alia,* because no oral hearing was held, the Court reiterates that Article 6 is not applicable to disputes on electoral issues (compare *Partija "Jaunie Demokrāti" and Partija "Mūsu Zeme" v. Latvia* (dec.), cited above, and the case-law cited therein).

49. Accordingly, this complaint is manifestly ill-founded within the meaning of Article 35 § 3(a), and must be rejected in accordance with Article 35 § 4.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the alleged violation of Article 14 of the Convention in conjunction with Article 3 of Protocol No. 1 to the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 14 of the Convention in conjunction with Article 3 of Protocol No. 1 to the Convention.

Done in English, and notified in writing on 28 January 2016, pursuant to Rule 77 §§ 2 of the Rules of Court.

Claudia Westerdiek
Registrar

Ganna Yudkivska
President