Sudalenko v Belarus

Disproportionate limitation to organise a political campaign underlines the close link between right to participate in public affairs (art. 25) and the right to peaceful assembly (art. 21)

Facts
The author ran as a candidate for the position of councillor (deputy) in 2008. He claims that his representative was refused membership of the Electoral Commission for the relevant district and that official tallies of voters were exaggerated and that the election-related violations discovered by him during the campaign resulted in violation of the rights of voters to freely express their will and violated article 25. The author claims his rights under article 19 have been violated as two newspapers refused to publish election related material. He further claims a violation of article 21 as he was refused permission to meet potential voters in the city center but instead informed there was only one designated location for public meetings which was outside of the center of the city. He claims that the state party did not provide him with an effective means of protection of his rights under the covenant under article 2 (3) as he made a complain to the Regional Election Commission describing violations of the election law and calling for the results to be declared invalid but the commission after informing him the complaints would be examined properly, the next day published the official results in the local paper and a few days later rejected his complaints. The regional court refused to hear the case due to lack of jurisdiction, a position which was upheld by the Supreme Court, which the author claims violates his rights under article 14 (1).

Committee’s View
Consideration of admissibility
The Committee found that the claims under article 2 (3) inadmissible as this article can only be invoked in conjunction with other articles of the covenant and cannot itself give rise to a claim under the Optional Protocol (AWK v. New Zealand). The Committee finds the claims under article 14 (1) and article 19, in the absence of further information or evidence in support of the claims, insufficiently substantiated. The Committee finds complaints under article 21 and 25 sufficiently substantiated and examined them on the
merits.

**Consideration of merits**
Regarding the violation of article 21 the Committee noted the authorities had restricted public meetings to one location without explaining why this was necessary, under domestic law and for any legitimate reason set out in the covenant and in the absence of pertinent information for the state party the Committee considers that due weight must be given to the author's allegations and finds a violation of article 21 ([Turchenyak et al. v. Belarus](#)).

Regarding article 25, the Committee noted the unchallenged allegations that the author was denied the possibility of meeting with his constituents in the center of the city and recalls General Comment No.25 which states that citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. The Committee considers the possibility of meeting with potential voters as integral to the rights guaranteed under article 25 of the Covenant, which includes the right to be elected to public office. Although the State party may establish rules and regulations governing political campaigns, those rules and regulations must not disproportionally restrict the rights guaranteed under the Covenant. In the absence of any pertinent information from the State party in that regard, the Committee concludes that the author's rights under article 25, paragraph (b), read in conjunction with article 21 of the Covenant, have been violated.

**Recommendation**

The State party is under the obligation to:

a. provide the author with an effective remedy, including compensation;

b. take steps to prevent similar violations in the future and to review its legislation, in particular Gomel City Executive Committee Decision No. 318 of dated 11 April 2006, as it has been applied in the present case, with a view to ensuring that the rights under article 21 of the Covenant may be fully enjoyed in the State party.

**Deadline to Submit the Report on the Implementation of the Recommendations**

27 September 2015