

Allegation letter to the Special Rapporteur on the rights to freedom of peaceful assembly and of association

- Case: Requests of the dissolution of the Unified Progressive Party by the Republic of Korea government
- Date: 4 March, 2014
- Submitting Organization: MINBYUN - Lawyers for a Democratic Society

| A. Essential Information | B. Helpful Information |
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| <p>1. Name of victim</p> <p>- The Unified Progressive Party</p> | <p>-A progressive party of Republic of Korea - English homepage: http://nisout.goupp.org/</p> |
| <p>2. Position of the victim</p> <p>- The Unified Progressive Party is a progressive party of Korea and speaks for the benefits of laborers, farmers, and middle-and-small merchants. - Therefore, The Unified Progressive Party has made the activities for criticism and monitoring of government's strategies and extended rights of other laborers (since the</p> | <p>- The Unified Progressive Party was found with unification of Democratic Labor Party, The Participation Party, and New Progressive and Unified Alliance in December, 2011. - Number of the members of the party: 104,692 persons (based on the registration in Republic of Korea National Electron Commission as of February, 2013) - Now, six members of the National Assembly, 2 heads of elementary local self-governments, 19 members of metropolitan</p> |

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| <p>former Democratic Labor Party).</p> | <p>local assemblies, and 91 members of basic local assemblies belong to such party and make activities.</p> |
| <p>3. Violation of human rights of the victims (violation of the freedom of association)</p> <ul style="list-style-type: none"> - The government requested the dissolution of The Unified Progressive Party and the provisional disposition for suspension of the whole activities of the Unified Progressive Party to the Constitution Court on November 5, 2013. - The reason for the request was that the Unified Progressive Party is a pro-North Korea group linked to North Korea and that ‘progressive democracy’, the highest conception of the party, is ultimately to pursue socialism. In addition, the government asserted that the purpose and activities of the Unified Progressive Party are against the basic order of free democracy under the Constitution of Republic of Korea as exposed in their rebellion conspiracy case. - However, the above arguments are unfair as follows: <ul style="list-style-type: none"> 1) There is no concrete evidence whatsoever that the Unified Progressive Party is linked with North Korea. There is no evidence that orders from North Korea appeared in several National Security Act cases was delivered to the Unified Progressive Party. No evidence to prove that orders from North Korea affected the policies or activities of the Unified Progressive Party was provided either. 2) The purpose of the Unified Progressive Party is not against the basic order of democracy. In June 2011, the Unified | <ul style="list-style-type: none"> - The system of dissolution of a political party is a constitutional protection means which may be considered only in the final step that the method is violent, that there concrete risk to arrogate democratic basic order, and that there is no alternative means such as individual criminal punishment, review of qualification by the National Assembly, and administrative supervision, etc. There are many countries that have no dissolution system of parties (France, USA, Japan, and GB, etc.) and such system has the risk to be abused as a mean to suppress small-scale parties. - In case of Germany and Turkey, the unconstitutional purpose of the parties had already been confirmed in their cases of dissolution of political parties. It was clear that the Socialist Reich Party of Germany dissolved in 1952 had been pursuing Nazism as its basic route. The Community Party of Germany dissolved in 1956 had been ultimately pursuing to realize socialism through a violent revolution, which was clearly presented in their platform and members’ manual. Turkey’s Welfare Party dissolved in 1993 had also been advocating the realization of an Islamic theocratic state in their platform. However, in case of the Unified Progressive Party, not only are they accepting the constitutional orders in their doctrine and policies, but they also have never formally explicated any unconstitutional purpose. - The most important reason for dissolution which was asserted by the government for the request for the trial was that so called underground revolution organization, i.e. RO, plotted an armed |

Progressive Party changed their goal to 'progressive democracy' from the previous 'succession and development of socialistic ideals and principles' in an attempt to actualize democracy as opposed to pursue socialism. The doctrine of the Unified Progressive Party recognizes division of powers, representative system, parliamentary system, multiparty system, election system, the independence of judiciary, guarantee of local government, respect for fundamental rights, etc. (Reference: the preamble of the doctrine of the Unified Progressive Party <http://www.goupp.org/?s=UBfqcLvP>)

3) Though the government is asserting that the Unified Progressive Party's reunification measures and doctrine of the withdrawal of the US Army, conclusion of a peace treaty, and abolition of National Security Act are against the basic order of democracy as they are in line with the arguments of North Korea, it is not necessarily against the constitution just because they have the same point of view with North Korea.

4) The government prosecuted the members of the National Assembly and some members of the Unified Progressive Party for conspiracy rebellion and violation of the National Security Act. The court of first instance found them guilty. However, considerable numbers of legal experts are criticizing the court decision pointing out that it was almost impossible to confirm facts in the first place with the errors in tape-recordings, possibility of forging or falsifying recording files, and uncertain testimony by witnesses. They also assert that it is very difficult to prove their allegations for conspiracy of a rebellion or agitation for one only with the facts that had been confirmed. The second trial is now in progress.

riot and plotted a rebellion by such method as preparations to cope with the armed provocation by North Korea. However, no case was prosecuted in relation to the organization itself called RO and the entity was not proved; in addition, the case of conspiracy of the rebellion by some constituents is now in the proceedings of the second trial. That is, it is violation of the principle of presumption of innocence to indicate a criminal fact which has not been fixed as the main reason for the trial for dissolution of a political party.

- According to article 6 of the Venice Commission Guidelines, dissolution of political parties should be in compliance with the principle of proportionality and based on sufficient evidence that the party itself and not only individual members pursue political objectives using or preparing to use unconstitutional means. In that vein, the conviction of the first trial does not immediately confirm unconstitutional activities of the Unified Progressive Party.
- In case of the activities against democratic basic order, it is the method of a matured democratic society based on tolerance and pluralism to make an action through free discussions according the selection made by the people to meet the opinions unless confusion is made with violence. It is enough against the illegal activities by some constituents to make actions using the punishment power or administrative power of the country.
- Therefore, the request for judgment against the Unified Progressive Party is unreasonable.

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| <p>5) The government argues that the facts that some members of the Unified Progressive Party had been charged for violation of the National Security Act in the past and that they donated to the Korean Teachers & Educational Workers' Union and the Korean Government Employees' Union are unconstitutional. However, the National Security Act is a typical unjust law that has been continuously asked to be abolished by the international society and the donation for civil servants issue is merely a violation of domestic laws.</p> <p>- Therefore, the litigation against the Unified Progressive Party is unreasonable suppression of a small-scale party.</p> | |
| <p>4. Assailant</p> <p>- Korean government</p> | <p>- The Unified Progressive Party asserts that the government intends to avoid the political crisis of the government (the problem of voting irregularities) by suppressing a progressive party that is against the government.¹</p> <p>- Especially, it intends to block the association of other political powers such as opposition parties and to isolate The Unified Progressive Party by stimulating the red complex of Korean society with assertion of the linkage between The Unified Progressive Party and North Korea.</p> |
| <p>5. Actions of the authority</p> <p>- Korean government is the assailant</p> | |

¹ Link with foreign press: <http://blogs.blouinnews.com/blouinbeatpolitics/2013/11/06/is-south-koreas-park-embracing-one-scandal-to-bury-another/>, <http://www.nytimes.com/2013/11/06/world/asia/south-korean-government-seeks-ban-of-small-leftist-party.html?pagewanted=1&r=1&>

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| <p>6. Associative relation with human right work</p> <p>- If a party is liquidated as it is considered as a party against the constitution, establishment of an alternative party is prohibited and the property is forfeited; such a result infringes not only the freedom for association of a party itself but also the political freedom of members and the freedom of association.</p> | <p>- In case of the event of Communist Party of Germany, collection of evidence took 7 months since the request for the judgment for dissolution in 1952, preparation took 2 and a half years, and oral examination took 1 year and 8 months; almost 5 years of time was taken.</p> <p>- However, in this case, preparation proceedings were made two times since the request for the trial on November 5, 2013 and oral proceedings were started on January 28, 2013. As the Minister of Justice attended extraordinarily and spoke at the oral proceedings, it is clear that the case is a political trial.</p> |
| <p>7. Provider of the information</p> <p>Dong-Hwa Lee MINBYUN - Lawyers for a Democratic Society 5th Floor, Sinjeong Bldg, 1555-3, Seocho-dong, Seocho-gu, Seoul Tel: 02-522-7284, Fax: 02-522-7285</p> | |