

**Outline of the Oral Hearing Conducted by the Second Senate
of the Federal Constitutional Court on 1, 2 and 3 March 2016**

- I. Introductory Statements (15 minutes)

- II. Procedural Obstacles
 1. Standard of Review
 - a) General Concept
 - b) No Informants at Executive Level (*Staatsfreiheit*) / No Use of Material Generated by Informants (*Quellenfreiheit*)
 - c) Due Process
 2. Application of the Law to the Specific Case
 - a) Deactivation of Informants / Withdrawal of Informants
 - b) Follow-Up Aimed at Obtaining Information
 - c) Spying out the Procedural Strategy and the Communication with the Authorised Representative

- III. Admissibility

- IV. Question Whether the Application is Well-Founded
 1. Standard of Review
 - a) Systematic Classification of the Proceedings Concerning the Prohibition of a Political Party
 - b) Constituent Elements
 - Political Party
 - Free Democratic Basic Order
 - Abolish or Undermine (*beseitigen oder beeinträchtigen*)
 - Seek (*darauf ausgehen*) (Sanctioning of Views or of Acts; Prevention as the Objective of the Provision)
 - Principle of Proportionality

- c) Similarity in Nature to National Socialism
 - d) Requirements Under the European Convention on Human Rights
 - e) Sources and Attribution of Information
2. Application of the Law to the Specific Case
- a) Free Democratic Basic Order
 - aa) Human Dignity
 - Ethnic Concept of “People” (*Volk*)
 - Position of Foreigners, Asylum Seekers, and Migrants
 - Ethnic and Religious Minorities
 - Anti-Semitism
 - bb) Democracy
 - Nationalism
 - Anti-Parliamentarism
 - Defeat of the System
 - cc) Rule of Law and the State’s Monopoly on the Use of Force
 - dd) Similarity in Nature to National Socialism
 - b) Abolish or Undermine
 - c) Seek
 - Degree of Organisation and Reach Into Society
 - Strategic Concept
 - Phases of Implementation (Dissemination of the Party Programme, Striving for Territorial Dominance, Content and Instruments of Political Competition, Disputes with Political Opponents, Interconnectedness With “Free Forces”)
 - Chance of Realisation
 - d) Proportionality

V. Legal Consequences

VI. Concluding Statements