



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

FIFTH SECTION

CASE OF KIVIRYAN v. ARMENIA

(Applications nos. 17997/16 and 73070/16)

JUDGMENT

STRASBOURG

9 April 2026

This judgment is final but it may be subject to editorial revision.

In the case of Kiviryan v. Armenia,

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

Gilberto Felici, *President*,

Mykola Gnatovskyy,

Vahe Grigoryan, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the applications against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 23 March and 3 November 2016 by an Armenian national, Mr Argishti Kiviryan (“the applicant”), who was born in 1977, lives in Yerevan and was represented by Ms L. Sahakyan and Mr Y. Varosyan, lawyers practising in Yerevan;

the decision to give notice of the complaints concerning Article 5 § 1, Article 10 and Article 11 of the Convention to the Armenian Government (“the Government”), represented by their Agent, Mr Y. Kirakosyan, and subsequently by Mr K. Andreasyan, Representative of the Republic of Armenia on International Legal Matters, and to declare the remainder of application no. 17997/16 inadmissible;

the parties’ observations;

Having deliberated in private on 19 March 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant’s arrest at two different demonstrations and the subsequent administrative proceedings instituted against him for his conduct during those events. The applicant relied on Article 5 § 1, Article 10 and Article 11 of the Convention.

I. APPLICATION No. 17997/16

2. On 4 April 2014 the applicant participated in a small protest on the pavement opposite the General Prosecutor’s Office. Following the arrest of a protestor who had attempted to demonstrate on the pavement adjacent to the office, the applicant crossed the street to that pavement and asked the officers to explain the legal basis for prohibiting the protest at that location. One of the police officers stated that it contravened the Freedom of Assembly Act and the Constitution, which allowed restrictions to be imposed for the protection of the rights of others. The police then ordered the applicant to move across the street. The applicant refused to comply and was arrested for disobeying lawful police orders – an administrative offence under Article 182

of the Code of Administrative Offences (“the Code”). The entire incident lasted approximately three minutes.

3. According to later findings of the domestic courts, the applicant’s arrest was justified under Articles 258 and 259 of the Code. Those provisions permitted, respectively, an individual to be deprived of his or her liberty for up to one hour in order to be taken to a police station and to be placed under administrative arrest for up to three hours – both, *inter alia*, for the purpose of drawing up an administrative offence record if one could not be prepared at the place where the offence had been detected (see *Ishkhanyan v. Armenia*, no. 5297/16, §§ 59-60, 13 February 2025).

4. The police subsequently applied to the Administrative Court, seeking to have a fine imposed on the applicant under Article 182 of the Code. The applicant lodged a counterclaim against the police, contesting both the lawfulness of the police order and his arrest.

5. The Administrative Court allowed the police’s claim, imposing a fine on the applicant in the amount of 50,000 Armenian drams (AMD – around 90 euros at the material time), and dismissed the applicant’s counterclaim. It noted that the lawfulness of a police order under Article 182 was directly dependent on whether an individual’s conduct amounted to a breach of public order. It found the order in question lawful, as the police had a duty to protect the General Prosecutor’s Office and a protest near its main entrance would have disrupted its normal functioning, including staff access to the building. The applicant had failed to balance respect for public order with his right to freedom of assembly. His conduct had amounted to a breach of public order and had shown disdain for social norms and a blatant disregard for moral standards and accepted standards of conduct. Owing to the chaotic situation at the scene, it had been impossible to prepare an offence record on the spot, so the applicant had been taken to the police station for that purpose. His detention in police custody had complied with Articles 258 and 259 of the Code.

6. That judgment was upheld on appeal and the final decision of the Court of Cassation was served on the applicant on 23 September 2015.

II. APPLICATION No. 73070/16

7. On 1 August 2013 the applicant participated in a protest outside the city hall of Yerevan. Prior to the start of the protest, and owing to hot weather conditions, the applicant announced his intention to pitch a tent in order to ensure his participation in it. A police officer present at the scene told him that, in order to do so, he needed official permission, since such conduct was in violation of the rules for the use of public spaces under the Code. The applicant maintained that pitching a tent was not prohibited and, acting on that belief, proceeded to erect a tent on the lawn adjacent to the main entrance of the office. Shortly thereafter he was arrested under Article 182 of the Code

for his failure to comply with a lawful police order. According to later findings of the domestic courts, his detention in police custody was justified under Articles 258 and 259 of the Code. He was released a couple of hours later.

8. The police applied to the Administrative Court, seeking to have a fine imposed on the applicant under Article 182. The applicant lodged a counterclaim against the police, complaining, *inter alia*, that his arrest had not been necessary.

9. The Administrative Court found the applicant guilty under Article 182 and fined him AMD 50,000, holding that the actions of the police had been lawful.

10. The Administrative Court of Appeal partly upheld an appeal lodged by the applicant, in view of the fact that the total time he had spent in custody, including in a police vehicle, had exceeded the relevant three-hour time-limit for the administrative arrest and had thus been partly unlawful. It also noted that once an offence record had been prepared, the applicant's continued arrest had been unlawful even before the time-limit expired. However, it held that the police had lawfully ordered him not to pitch the tent and that, under Article 258 of the Code, they had had discretion to decide not to draw up an offence record on the spot on account of the unsuitable conditions at the protest; thus, the applicant's removal from the demonstration for that purpose had been justified.

11. On 4 May 2016 the Court of Cassation declared an appeal on points of law lodged by the applicant inadmissible for lack of merit.

12. On 8 October 2021, in a separate set of proceedings, the Administrative Court of Appeal obliged the police to grant the applicant compensation of AMD 175,000 for the breach of his right to liberty as established by that court (see paragraph 10 above).

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS AND THE ORDER OF EXAMINATION OF THE COMPLAINTS

13. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

14. The Court considers it appropriate to examine the applicant's complaints in the chronological order of the events that gave rise to them.

II. PRELIMINARY OBJECTION BY THE GOVERNMENT

15. The Government submitted that the applicant had failed to inform the Court that he had obtained compensation for the breach of his right to liberty established by the appeal court (see paragraph 12 above). According to them,

the applicant's conduct had constituted an abuse of the right of individual application. Alternatively, they claimed that the applicant could no longer claim to be a victim of the violation alleged.

16. However, the core of the applicant's complaint before the Court was that he had not committed any offence and that his arrest had not been necessary because the police could have drawn up an offence record on the spot instead of taking him to a police station. The acknowledgment of the breach by the appeal court and the subsequent compensation awarded to the applicant, on the other hand, concerned the fact that his arrest had exceeded the three-hour limit for an administrative arrest. That information therefore does not concern the core of the case before the Court. For the same reason, the applicant has not lost his victim status.

17. Both objections should therefore be dismissed.

III. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

18. Relying on Article 5 § 1 of the Convention, the applicant complained that his deprivation of liberty on 1 August 2013 and 4 April 2014 had been unlawful and arbitrary.

19. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

20. The general principles concerning Article 5 § 1 have been summarised in *S., V. and A. v. Denmark* ([GC], nos. 35553/12 and 2 others, §§ 73-77, 22 October 2018). It does not suffice that deprivation of liberty be taken and executed in conformity with national law; it must also be necessary in the circumstances (*ibid.*, § 77).

21. On both 1 August 2013 and 4 April 2014 the applicant's deprivation of liberty had the purpose of bringing him before the relevant legal authority on suspicion of having committed an administrative offence and thus fell within the ambit of Article 5 § 1 (c) of the Convention (compare *Berkman v. Russia*, no. 46712/15, § 36, 1 December 2020). Under domestic law, the commission of an administrative offence alone was insufficient to impose such a measure; deprivation of liberty had to be necessary, pursuant to Articles 258 and 259 of the Code.

22. As for the arrest of 1 August 2013, even assuming that the police order which the applicant disobeyed had been lawful, the Court is not convinced that his detention in police custody was necessary in the circumstances. Specifically, given the ample police presence at the demonstration, as captured in video footage available to the Court, it is doubtful that they were prevented from drawing up an offence record on the spot or, at least, after they had placed the applicant in a police car. The authorities did not cite any other grounds under Articles 258 or 259 to justify the applicant's detention in

police custody. Accordingly, they failed to demonstrate that the measure had been necessary in the circumstances.

23. As for the arrest of 4 April 2014, the police justified the lawfulness of their order – namely, not to protest on the pavement adjacent to the General Prosecutor’s Office – by vaguely referring to the Freedom of Assembly Act and the Constitution without specifying any actual prohibition on protesting at the location in question. As for the courts, while noting that the police had been under a duty to ensure the protection of the building, they failed to identify any specific or even general ban on protesting there under domestic law. Given the applicant’s non-violent conduct, he did not threaten the normal functioning of the building. Hence, it is doubtful that, at the time of his arrest, the police had any reasonable suspicion that he had committed the imputed offence (namely, failure to comply with a lawful police order) since the order had lacked any legal basis. In any event, it had not been necessary to arrest the applicant. While the courts justified his arrest after the fact by holding that the chaotic situation at the scene had made it impossible to draw up an offence record on the spot, the video footage shows no indication of disorder. The applicant, being the sole demonstrator on the pavement adjacent to the General Prosecutor’s Office, could not reasonably be considered a source of chaos. No additional justification was advanced by the authorities.

24. The foregoing is sufficient to conclude that there has been a violation of Article 5 § 1 of the Convention in respect of both occasions.

IV. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION (APPLICATION No. 17997/16)

25. The applicant complained that by arresting him during the demonstration of 4 April 2014 and then fining him, the authorities had breached his rights under Articles 10 and 11 of the Convention.

26. The Government submitted that the complaint under Article 10 was incompatible *ratione materiae* with the provisions of the Convention as the applicant’s deprivation of liberty had not affected the purpose of the demonstration and he had not been punished for expressing his opinion.

27. The Court has emphasised that the freedom of assembly under Article 11 is closely linked with the freedom of expression guaranteed by Article 10, as the protection of personal opinions, secured by the latter, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11. According to its settled case-law, a complaint about one’s arrest or conviction in the context of a demonstration falls to be examined under Article 11 of the Convention on the basis that Article 10 is to be regarded as a *lex generalis* in relation to Article 11, which is a *lex specialis* (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 101, 15 November 2018, with further references). The Court therefore dismisses the Government’s objection. At the same time, it considers that the applicant’s complaints fall to be examined

solely under Article 11 of the Convention, interpreted where appropriate in the light of Article 10 (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 86, ECHR 2015).

28. This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

29. The general principles concerning Article 11 have been summarised in *Kudrevičius and Others* (cited above, with further references).

30. The contested measures – the applicant’s arrest and the imposition of the fine – constituted an interference with his right to freedom of assembly. It remains to be seen whether it was “prescribed by law”, pursued “legitimate aims” and was “necessary in a democratic society”.

31. Firstly, the applicant’s arrest prevented him from participating in the demonstration. For the reasons already given (see paragraph 23 above), such interference was also unlawful in terms of Article 11 (compare *Berkman*, cited above, § 60). Furthermore, given that the applicant’s conduct was clearly of a non-violent nature, the reasons invoked by the domestic authorities for the arrest were insufficient to justify his exclusion from the demonstration.

32. Regarding the fine, as mentioned above, the courts did not specify any domestic provision prohibiting a demonstration on the pavement adjacent to the General Prosecutor’s Office. The fact that the police ensured State protection of the building did not imply a prohibition on protesting near it. The applicant’s presence there did not threaten the functioning of the building, including staff access, given that he was the only demonstrator on that pavement and was not involved in any obstructive or violent conduct. By fining the applicant, the authorities essentially punished him for his attempt to protest at a location where such an action was not prohibited by law. In such circumstances, it cannot be said that the fine imposed on him was prescribed by law given that the applicant’s non-violent conduct at the demonstration had not been prohibited and the order of the police which he had disobeyed had had no legal basis under domestic law.

33. Accordingly, there has been a violation of Article 11 of the Convention.

V. REMAINING COMPLAINTS

34. In application no. 73070/16, the applicant also complained under Articles 10 and 11 that his arrest and the imposition of the fine had been aimed at punishing him for his participation in the protest. The Court has examined that part of application no. 73070/16 and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not

disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

35. It follows that this part of application no. 73070/16 must be rejected in accordance with Article 35 § 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

36. The applicant claimed in total 5,000 euros (EUR) in respect of non-pecuniary damage with regard to both his applications. He also claimed a total sum of 2,400,000 Armenian drams in respect of his legal costs before the Court, which according to him was equivalent to EUR 5,800. He did not make any claim in respect of pecuniary damage.

37. The Government contested those claims.

38. The Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

39. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 2,000 covering the costs for the proceedings before it, plus any tax that may be chargeable to the applicant, and dismisses the remainder of the claims.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints under Article 5 § 1, concerning the lawfulness of the applicant's arrest as regards both applications, and the complaint under Article 11 in respect of application no. 17997/16 admissible, and the remainder of application no. 73070/16 inadmissible;
3. *Holds* that there has been a violation of Article 5 § 1 of the Convention as regards both applications;
4. *Holds* that there has been a violation of Article 11 of the Convention as regards application no. 17997/16;
5. *Holds*
 - (a) that the respondent State is to pay the applicant within three months the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Gilberto Felici
President