

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

FIFTH SECTION

CASE OF GASPARI v. ARMENIA

(Applications nos. 1606/16 and 19579/16)

JUDGMENT

STRASBOURG

30 April 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Gaspari v. Armenia,

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

Georgios A. Serghides*, President*,
Gilberto Felici,
Diana Sârcu*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 1606/19 and 19579/16) 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 18 December 2015 and 1 April 2016 by an Armenian national, Mr Vartgez Gaspari ("the applicant"), who was born in 1957, lives in Yerevan and was represented by Mr T. Yegoryan, Ms L. Hakobyan and Ms G. Petrosyan, 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 the applications inadmissible;

the parties' observations;

the decision to dismiss the Government's objection to the examination of the applications by a Committee;

the withdrawal of Mr Vahe Grigoryan, the judge elected in respect of Armenia, from sitting in the case (Rule 28 § 3 of the Rules of Court);

Having deliberated in private on 2 April 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. 1606/16

2. On 20 December 2013 the applicant participated in a protest. When some of the protestors attempted to block the road, the police forced them back onto the pavement, eventually holding them there behind a police cordon. In the video footage of the event, the applicant can be seen insulting police officers with several derogatory remarks while being held inside the cordon. He was arrested, allegedly not long after the police allowed the

protestors to exit the cordon, for publicly insulting a police officer (a certain D.S.) in connection with the discharge of his duties to preserve public order (an administrative offence under Article 172.3 of the Code of Administrative Offences: "the Code").

3. At the police station, records were prepared in respect of, *inter alia*, the applicant's administrative arrest and commission of the offence under Article 172.3. The applicant disputed the times of his arrest and release as recorded by the police (1.50 p.m. and 4.35 p.m. respectively).

4. The police applied to the Administrative Court, seeking to have an administrative fine imposed on the applicant under Article 172.3 of the Code.

5. On 9 April 2014 the applicant lodged a counterclaim against the police. Among other things, he contested the lawfulness and necessity of his arrest.

6. The Administrative Court allowed the police's claim and dismissed the applicant's counterclaim. It found that the applicant had committed an offence under Article 172.3 of the Code and fined him 50,000 Armenian drams ("AMD"; around 100 euros at the material time). As for the applicant's counterclaim, the court referred to Articles 258 and 259 of the same 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). The actions of the police had been in compliance with Article 258 of the Code, given that there had been no possibility of drawing up an administrative offence record on the spot during such a chaotic demonstration. His administrative arrest had not exceeded the three-hour limit, as he had been held for two hours and 45 minutes.

7. That judgment was upheld by an appeal court.

8. On 23 December 2016 the Court of Cassation dismissed an appeal on points of law lodged by the applicant.

II. APPLICATION No. 19579/16

9. On 2 December 2013 a State visit by the Russian President to Yerevan triggered a protest against the accession of Armenia to the Eurasian Customs Union ("the ECU"). The protest was to be followed by a march to the President's Office. The applicant participated in the protest. According to the later findings of the domestic courts, at 2.20 p.m. the participants of the march, including the applicant, had stepped onto the road, thereby obstructing the traffic on Amiryan Street for a considerable time, and had disobeyed the orders of the police officers to clear the road. Before long, the applicant was arrested for his failure to comply with lawful orders given by the police to

ensure the peaceful and normal course of a protest, an administrative offence under Article 180.1 § 15 of the Code.

10. The first record, concerning the applicant's arrest and his being taken to a police station, was drawn up at 4.45 p.m. and indicated that he had been arrested at 2.30 p.m. on Amiryan Street. A second record, concerning the commission of the offence, was drawn up at 5 p.m. The applicant was then questioned and released at 5.50 p.m.

11. The police applied to the Administrative Court, seeking to have a fine imposed on the applicant under Article 180.1 § 15 of the Code.

12. The applicant lodged a counterclaim against the police, complaining about the disruption to the march and his arrest, which had not been necessary.

13. The Administrative Court allowed the police's claim and rejected the applicant's counterclaim. Relying on video footage of the events in question and the material in the administrative case file, it found that the applicant had disobeyed the lawful orders of the police officers to clear the road. He had "failed to maintain a fair balance between respecting public order and exercising his freedom of assembly". He had therefore committed an offence under Article 180.1 § 15 of the Code and was fined AMD 50,000. As regards the counterclaim, the court held that, owing to its conclusions about the unlawfulness of the applicant's conduct, his arrest had been lawful and necessary to protect and restore public order.

14. That judgment was upheld by an appeal court, which noted, *inter alia*, that the applicant had been deprived of his liberty under Articles 258 and 259 of the Code (see paragraph 6 above). The impossibility of drawing up the offence record on the spot had in essence been justified by the chaotic situation on Amiryan Street at the material time. The very fact that a protest had been held, and that the applicant had attended it, meant that his right to freedom of assembly had been ensured; however, that right was not unlimited and the commission of an offence could not be justified by the guarantees afforded by it. As regards the length of time spent by the applicant in police custody, according to the police logbook, he had been arrested at 2.50 p.m. and released at 5.50 p.m., which was within the three-hour limit for an administrative arrest.

15. The final decision of the Court of Cassation was served on the applicant on 1 October 2015.

THE COURT'S ASSESSMENT

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

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

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

II. 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 2 and 20 December 2013 had been unlawful and arbitrary.

19. The 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 2 and 20 December 2013 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, and *Matchavariani v. Georgia*, no. 46852/21, § 61, 20 May 2025). 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 regards his arrest on 2 December 2013, the material prepared by the police contained no mention of the impossibility of preparing the offence record on the spot. Even assuming that, as found by the appeal court, this was on account of the chaotic situation at the material time, the authorities failed to explain why an offence record had not been drawn up during the hour that the applicant had spent in police custody (under Article 258) and whether his subsequent administrative arrest (under Article 259) – which had apparently been carried out for the same purpose of drawing up an offence record – had been at all necessary. In fact, the material in the administrative case file shows that the record concerning the applicant's custody was drawn up by the police at 4.50 p.m., and that the offence record was drawn up at 5 p.m., that is, more than two hours after his arrest (at 2.30 p.m.). However, no explanation was put forward for such a delay. The Government justified it by referring to the applicant's allegedly disruptive conduct; however, that assertion was not supported either by the material in the administrative case file or the relevant court decisions.

23. Even after the police had drawn up the offence record at 5 p.m. – thereby fulfilling the purpose of the applicant's administrative arrest – the applicant was not released. He was interviewed and released only about an

hour later, meaning that his administrative arrest exceeded the relevant three-hour limit as he was arrested at 2.30 p.m. (see paragraph 10 above).

24. As regards the applicant's arrest on 20 December 2013, even assuming that it had been impossible to draw up an offence record on the spot, the authorities failed to explain why no such record had been prepared during the hour that the applicant had spent in police custody (under Article 258) and whether his subsequent administrative arrest (under Article 259) – which had seemingly been carried out for the very purpose of drawing up an offence record – had been at all necessary.

25. The above-mentioned considerations are sufficient to conclude that both of the applicant's administrative arrests – on 2 and 20 December 2013 – were not free from arbitrariness.

26. There has accordingly been a violation of Article 5 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION (APPLICATION No. 19579/16)

27. The applicant complained that by arresting him and subjecting him to an administrative fine, the authorities had breached his rights under Articles 10 and 11 of the Convention.

28. This complaint falls 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, §§ 85-86, ECHR 2015). It 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 applicant's arrest and the administrative penalty imposed on him amounted to an interference with his right to freedom of assembly. In view of the submissions of the parties and the information available in the case file, and even assuming that the interference was "prescribed by law" and pursued "legitimate aims", it remains to be seen whether it was "necessary in a democratic society".

31. According to the findings of the domestic courts, the applicant had failed to abide by the police orders not to block the road – orders which had aimed to ensure the peaceful and normal course of the protest. However, they examined the case without having regard to its context. Specifically, it does not appear that the protestors deliberately blocked the road to cause intentional disruption or pressure the government into meeting their demands. Nor did the Government put forward an argument to that effect. The video footage submitted by them appears irrelevant: it depicts the applicant being

arrested on the pavement and at a location different from the one cited by the authorities, thus contradicting the administrative offence record.

32. The material available suggests that the protest was held in the form of a march to raise awareness of and voice the protestors' concerns regarding Armenia's accession to the ECU. The order of the police to clear the road was therefore in essence an order to stop the march – that is, the protestors' intended form of demonstration. The courts, however, failed to properly explain how the order in question had intended to ensure the peaceful course of the march in the first place. Nor did they enquire into the political nature of the march, which had apparently been organised in reaction to the Russian President's visit, or the ways in which it could have been facilitated given its importance for the protestors. The courts thus limited their assessment to upholding the police's claim without reservation, essentially characterising the march as a breach of public order and ruling out the possibility that it had been protected under one's right to freedom of assembly. Although they held that the protestors had blocked the road for a considerable time, the administrative case material and their findings indicated that the applicant had been arrested shortly after the march began (see paragraphs 9-10 above). This left unclear the extent of the disturbance and the level of tolerance shown by the police, both of which were crucial elements for assessing the necessity of the interference. The Court therefore considers that the authorities, including the domestic courts, failed to provide "relevant and sufficient" reasons to justify the interference with the applicant's right to freedom of assembly which, in such circumstances, cannot be said to have been necessary in a democratic society.

33. There has accordingly been a violation of Article 11 of the Convention.

IV. REMAINING COMPLAINTS

34. In application no. 1606/16, 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. 1606/16 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 the application 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 11,000 euros (EUR) in respect of non-pecuniary damage with regard to both his applications. He also claimed a total sum of 1,850,000 Armenian drams ("AMD") in respect of the costs and expenses incurred before the domestic courts and AMD 2,000,000 for those incurred before the Court. According to the applicant, the total amount claimed in respect of costs and expenses was equivalent to EUR 7,614. 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 and its case-law (see *Suren Antonyan v. Armenia*, no. 20140/23, § 151, 23 January 2025, with further references), the Court considers it reasonable to award the applicant EUR 2,000, covering costs for the proceedings before it, plus and tax that may be chargeable to the applicant, and dismisses the remainder of the claim.

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, and the complaint under Article 11 in respect of application no. 19579/16 admissible and the remainder of application no. 1606/16 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. 19579/16;

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 30 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Georgios A. Serghides President