

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

FIFTH SECTION

CASE OF KIVIRYAN v. ARMENIA

(Application no. 1593/16)

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 Kiviryan 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 application (no. 1593/16) 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 20 December 2015 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 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 application inadmissible;

the parties' observations;

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 alleged restrictions on the applicant's rights to liberty and freedom of assembly. He relied on Article 5 § 1 and Article 11 of the Convention.

2. Following a statement by the President of Armenia that the country would be joining the Eurasian Customs Union, on 4 September 2013 the applicant participated in a protest held on the pavement opposite the President's Office, which was separated from it by six lanes of traffic. The demonstrators later moved in front of the building's entrance gates, prompting the police to order them back to the opposite pavement and to stop traffic to facilitate their return. However, when the police attempted to move the demonstrators back to the opposite pavement, the applicant and others sat on the road in protest and refused to clear it despite police orders to do so. The police subsequently arrested most of the participants, but not the applicant.

3. Later the same day the applicant went to Arabkir police station, where many people had gathered in support of the arrested demonstrators. He was

arrested there for his earlier failure to comply with police orders – an administrative offence under Article 182 of the Code of Administrative Offences ("the Code"). 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). The applicant was released after all administrative formalities had been completed.

4. The police applied to the Administrative Court, seeking to have an administrative fine imposed on the applicant under Article 182 of the Code. The applicant lodged a counterclaim against the police, complaining about the dispersal of the demonstration and his arrest.

5. The Administrative Court found that, notwithstanding the police's lawful orders, the applicant had failed to vacate the area near the President's Office and had continued obstructing the road by sitting on it, thereby breaching public order and committing an offence under Article 182. He was fined 50,000 Armenian drams (about 100 euros at the material time). The police order for the demonstrators to move was considered lawful under the Freedom of Assembly Act, as the protest's proximity to the President's Office could have disrupted its normal functioning and impeded access to the building. The police had sought not to ban the protest but to ensure that it did not interfere with the operations of the President's Office. The applicant's counterclaim was dismissed as he had failed to balance respect for public order with his right to freedom of assembly. Owing to the chaotic circumstances and limited police presence at the relevant time, the court accepted that it had been impossible to arrest him or draw up an administrative offence record at the scene, making his later arrest near the police station lawful under Articles 258 and 259 of the Code.

6. That judgment was upheld on appeal and the decision of the Court of Cassation was served on the applicant on 20 June 2015.

THE COURT'S ASSESSMENT

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

7. Relying on Article 5 § 1 of the Convention, the applicant complained that he had been unlawfully and arbitrarily deprived of his liberty in front of the police station.

8. 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.

9. 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 is not enough for the deprivation of liberty to have been carried out in conformity with national law; it must also have been necessary in the circumstances (ibid., § 77).

10. The applicant was deprived of his liberty for the purpose of bringing him before the relevant legal authority on suspicion that he had committed an administrative offence. His deprivation of liberty therefore 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 or 259 of the Code.

11. Even assuming that the police order which the applicant disobeyed had been lawful, the authorities justified his arrest by referring to a practical obstacle – that is, the chaotic situation at the site of an earlier demonstration – which had no longer been relevant during his arrest later that day in front of the police station. Neither the police nor the courts advanced any further grounds to establish the necessity of placing the applicant in police custody under Article 258 or Article 259. The Government sought to justify the measure by arguing that, during the demonstration in front of the police station, the police had attempted to serve the applicant with a summons, and since he had refused to accept it and had thus disobeyed a police order, his arrest had been necessary. Nevertheless, those circumstances had never been cited by the police, let alone considered by the courts when establishing the legal grounds for the applicant's arrest, and they cannot be accepted retrospectively.

12. The above considerations are sufficient to conclude that the applicant's arrest on 4 September 2013 was arbitrary, as the authorities failed to show that it had been necessary in the circumstances.

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

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

14. The applicant complained that by dispersing the demonstration outside the President's Office and then fining him, the authorities had breached his rights under Articles 10 and 11 of the Convention.

15. 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.

16. The general principles concerning Article 11 have been summarised in *Kudrevičius and Others* (cited above, §§ 100, 102, 108-10 and 142-60).

17. Both the disruption to the protest and the fine imposed on the applicant 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".

18. Even assuming that the interference was lawful and pursued one of the aims under Article 11, the domestic courts failed to take into account several key factors relevant for assessing the necessity of the interference with the applicant's right to freedom of assembly. Specifically, no account was taken of the political context of the protest, which had been held in reaction to the President's statement, and thus the importance of the location for the participants. Protesting on the pavement opposite the President's Office, which was separated from it by six lanes of traffic, could have hardly achieved the protestors' aim of voicing their discontent to the President on a matter of public interest. The conclusion of the courts that the protest could have impeded staff access to the building seems hypothetical, because they did not establish any actual disturbance caused by the protestors' presence near the building's gates. Nor did they enquire into the level of tolerance shown by the police. As regards the obstruction of traffic, the reason why the applicant found himself on the road in the first place was because the police had pushed the protestors there in an effort to relocate them. The protest in question had therefore not intended to block the traffic but had done so as a direct consequence of police actions, namely their restriction on the protest location.

19. By failing to take into account the above-mentioned aspects, as well as the context in which the events had unfolded, the courts failed in their procedural obligation to carry out a proper assessment of the relevant facts and provide relevant and sufficient reasons when allowing the police's claim and fining the applicant.

20. The above is sufficient to conclude that the interference with the applicant's right to freedom of assembly was not necessary under Article 11. Accordingly, there has been a violation of Article 11 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. The applicant claimed 2,500 euros (EUR) in respect of non-pecuniary damage and 1,350,000 Armenian drams in respect of the costs and expenses incurred before the Court, which according to him was equivalent to EUR 2,500. He did not make any claim in respect of pecuniary damage.

22. The Government contested those claims.

23. The Court awards the applicant EUR 2,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

24. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 1,000 covering the applicant's legal costs before it, plus any tax that may be chargeable to him, and dismisses the remainder of the claims.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;

3. *Holds* that there has been a violation of Article 11 of the Convention;

4. *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 2,500 (two thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one 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;

5. *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