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

FIFTH SECTION

DECISION

Application no. 45401/15
Shant HARUTYUNYAN and Others
against Armenia

The European Court of Human Rights (Fifth Section), sitting on 1 April 2025 as a Chamber composed of:

Mattias Guyomar*, President*,
María Elósegui,
Armen Harutyunyan,
Stéphanie Mourou-Vikström,
Gilberto Felici,
Andreas Zünd,
Diana Sârcu*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 45401/16) 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") by Mr Sh. Harutyunyan and 10 others, all of them Armenian nationals ("the applicants"), on 15 September 2015;

the decision to give notice to the Armenian Government ("the Government") of the complaint under Article 11 of the Convention and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

INTRODUCTION

1. The case concerns the disruption of a protest march which turned violent and the applicants' ensuing convictions. The applicants relied on Article 11 of the Convention.

THE FACTS

2. A list of the applicants is set out in the appendix. They were represented by Ms I. Petrosyan, a lawyer practising in Armenia.

3. The Armenian Government ("the Government") were represented by their Agent, Mr Y. Kirakosyan, Representative of the Republic of Armenia on International Legal Matters.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

A. Protest march of 5 November 2013

5. At the relevant time, Mr Shant Harutyunyan ("the first applicant") was an opposition politician and the leader of the political party Tseghakron, while the remaining applicants were his supporters.

6. On 30 October 2013 the first applicant began a sit-in demonstration in Freedom Square. He announced that on 5 November 2013 a protest march would take place to celebrate Guy Fawkes Day. He did not submit prior notification for the march, nor did he disclose the route of the march to the police. Prior to the march, the first applicant, with the help of the seventh applicant, procured wooden batons (resembling spade handles) and improvised, palm-sized pyrotechnic devices (filled with stones) (hereinafter referred to as "the explosives") and took them to Freedom Square. The police were present at the site of the demonstration.

7. In video footage submitted to the Court, on 5 November 2013, before the start of the march, the first applicant makes a speech, the relevant parts of which read as follows:

> "Yeah, we should go, what else can we do; [with] petrol bottles, I will not just torch the President's office but I will burn it down.
>
> ...
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> [Burn the President] inside, yes. Whoever comes with us, let them come; if not, then it's their business ... I am saying my piece – whoever finds their dignity humiliated by the authorities, has common sense [and] dignity and thinks they are alone and cannot protect their dignity by themselves. Let them know that on this stage there are guys who are ready to stand firm for their dignity, even if they have to die for it. If there is a person, a good fellow, whose self-esteem has been trampled upon, let them know, that's it. I am saying neither 'come and join us' nor 'go away'.
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> ...
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> There is a good saying in Russian, it was common in Russian prisons, it goes: унижают человеческое достоинство [(they degrade human dignity)], even that of a prisoner ... even if a prison warden degraded him ... the prisoner ... even they took into account that it was not permissible to degrade a person's dignity to that extent. In Armenia, the authorities of Armenia, the Armenian elite are degrading people in the most despicable way... I will burn down the buildings, that's it ..."

8. In other video footage of 5 November 2013 the first applicant can be seen taking off his bulletproof vest and giving it to his then minor son, the fifth applicant, during which he stated:

> "... Let the cops see ... My child is going to fight alongside me ... if [the police] shoot me, let them shoot. Take this [bulletproof vest], Shahen ... [hit] the cops in the head with your baton. If the bitches are going to shoot my child, let them shoot ..."

9. Before the start of the march, the first applicant gave a press conference to the assembled journalists, during which he stated:

> "We want to start a revolution, namely to seize the President's office, to take bottles filled with petrol ... the President's office, the National Security Service, the Ministry of Internal Affairs, the Prosecutor General's Office and the Constitutional Court and open prison doors – there are many innocent people there ... People should be given freedom, a possibility to express themselves, and there should not be lawlessness. That's what we want. And until the current Government steps down, meaning that [the President of Armenia] Serzh Sargsyan fucks off, the country will not progress.
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> ...
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> If in Armenia there are no good men to topple this bitch government, then everyone living in Armenia is a bitch. I would rather die, I would rather go with bottles of petrol and let the sniper gun me down ... I don't want to throw myself from the Kievyan [Bridge]; I don't want to leave Armenia. I will live like this and ... that's the path to follow ... I don't want to hear others saying that there are no good people in Armenia, that everyone is rotten; like [President] Serzh, like his rubbish people ... That's my main goal [which] is not necessarily to win; after that, whoever may come [to power] – I may be dead [by then] – it is up to the living [to decide] who they wish to elect. I'm going to do it.
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> ...
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> Today there will be a march, then we'll see, depending on the police, how they will behave, that's how it will turn out. I want to announce something: apart from petrol bottles, stones, wooden sticks, slingshots, permanganic acid [and] bronze, we haven't yet brought any other weapons. If firearms or guns come at us, whoever survives among us will fight them with firearms and guns. We, the revolutionaries, do not want bloodshed. It will be without bloodshed, just like Saakashvili did in Georgia. If they behave sensibly, we will give them a rose and send them back ... , but if they don't behave sensibly, if they spill blood, they will get [the same thing] from our friends, who will remain alive, that's all.
>
> ...
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> Are you listening to me? As far as I gather, there are *agents provocateurs* around here. I'm telling the police, if they don't bring [them] to [their] senses, we won't ask for your help; we'll smash [them] with batons right during the march."

10. Publicly available video footage of the events demonstrates that, following the first applicant's above-mentioned speech, the protesters, including the applicants, who are wearing Guy Fawkes masks and are armed with wooden batons, start to march towards Mashtots Avenue, while the police escort the procession. When the first applicant steps onto Mashtots Avenue, the police officers can be seen attempting to stop him and one of

them pulls him back, by grabbing by his arm[1]. The first applicant, outraged, breaks free, shouting at the officer to let go of him, and threatens him with his baton. This incident provokes a confrontation between the police and the applicants. The eleventh applicant intervenes, apparently trying to push the police officer in question away from the applicant. Then one of the protesters, followed by others, throws explosives at the feet of the police officers, which explode and create a cloud of smoke. The situation deteriorates further when one of the police officers tries to isolate the first applicant by grabbing him by his arms, and other protesters charge towards them, some of them hitting the officer in question with their batons. The police attempt to arrest the applicants, who resist violently, with several pushing the police officers or hitting them with the batons. A plainclothes officer can be seen scuffling with the seventh applicant, while the latter resists. Several applicants rush towards them and hit the plainclothes officer with their batons, who could be seen bleeding in the head. Eventually, all the applicants are arrested and taken to a police station.

11. As a result of the clashes, three uniformed and two plainclothes officers suffered injuries.

B. The applicants' trial and convictions

12. The applicants were charged with different counts of hooliganism – a criminal offence under the former Criminal Code (see paragraph 21 below). In addition, the fourth applicant was charged with possession of a psychoactive substance (see paragraph 22 below), while the sixth and seventh applicants were charged with violence against a State authority (see paragraph 23 below). The case was referred to the trial court.

13. Sixteen law-enforcement officers, including two plainclothes officers, who had participated in crowd control on the day in question, were later recognised as victims of a crime in the proceedings against the applicants. They submitted similar statements, reporting that when the protesters had stepped onto Mashtots Avenue, the police had ordered them to leave that road. Notably, one of the police officers had grabbed the first applicant by his arm in an attempt to stop him. However, the protesters had failed to comply with their lawful orders, had brandished their batons in an intimidating manner, had hit or had pushed the police officers, including with their batons, and had thrown their explosives in the direction of the police, creating panic. As a result of the explosions, sparks and flames had flown in all directions, while the smoke had caused their eyes to sting and water. Only after receiving reinforcements had the police been able to arrest the applicants.

[1] https://www.youtube.com/watch?v=9p1h7HYuGwQ (staring from minute 4:20; last accessed on 29 December 2024).

14. Out of sixteen officers, four claimed that the protest march had initially been peaceful, while one of the police officers submitted that they (that is, the police) had thought the wooden batons carried a symbolic meaning for the march and had had no idea that they would be used as weapons against the police.

15. The applicants testified that they had intended to hold a peaceful protest march and denied any intention to commit hooliganism. Some of them (including the first applicant) stated that they had carried wooden batons and explosives only for self-defence in case the police had decided to use force. They argued that no one had told them not to march onto Mashtots Avenue. In fact, their impression was that marching on the road had been allowed given that the police had been escorting them. The clashes had been provoked by the police. The first applicant additionally contended that the act of being grabbed by his arm had been insulting to him and that he had only heard the police ordering them to leave the road after that. Those applicants who had admitted to hitting or scuffling with uniformed police officers (namely, the third and fifth applicants) argued that they had done so either in self-defence or to help their friends. The second, sixth and seventh applicants admitted to have thrown explosives at the direction of the police, apparently either to disorient them or liberate their comrades. As regards the two injured plainclothes officers, the applicants (namely, the fourth, sixth, and ninth applicants) had not known that they had been police officers. Rather, they had perceived them as *agent provocateur*, one of whom had allegedly assaulted the seventh applicant.

16. On 17 October 2014 the trial court delivered a judgment convicting the applicants. Specifically, it established that on 5 November 2013 the first applicant had incited and prepared the crowd gathered in Freedom Square for hooliganism by calling for disobedience (it referred to the first applicant's first statement cited in paragraph 7 above). Having convinced his supporters to take along wooden batons and explosives, the first applicant had led the march from Freedom Square. The protesters had entered the lanes of traffic on Mashtots Avenue, obstructing traffic. Police officers had attempted to remove them from the road and restore public order, but several participants of the march, including the second, third and sixth applicants, under the leadership and organisation of the first applicant, had thrown their explosives at the feet of the police officers. That had caused loud explosions, smoke and the scattering of burning materials, which had created chaos and panic, leading to the disruption of traffic for a long period on one of the main roads in the capital Yerevan, as well as hindering pedestrian movement. In addition to the above, the first and third applicants had hit police officers with their batons, while the fifth applicant – with a megaphone. The fourth, sixth, seventh, ninth and eleventh applicants had assaulted plainclothes officers. Apart from the tenth applicant (who had attempted to hit a police officer), the seventh to eleventh applicants either had resisted police officers or had

pushed or scuffled with them. The trial court found that, as a result of the fifth and seventh applicants' actions, two police officers had suffered injuries, resulting in mild damage to their health, while the sixth applicant had injured a plainclothes officer, causing mild damage to his health.

17. The trial court convicted the applicants of different counts of hooliganism and sentenced them to imprisonment ranging from a period of one and a half to seven years, apart from the second applicant who received a fine in the amount of 50,000 Armenian drams and the fifth applicant, who was given a four-year suspended sentence since he was a minor at the time. The fourth and seventh applicants were also found guilty of possession of a psychoactive substance and violence against a police officer respectively. The trial court acquitted the sixth applicant of violence against a police officer.

18. The applicants lodged separate appeals against the above-mentioned judgment, essentially arguing that they had been exercising their right to freedom of assembly, that the confrontation had been a result of police provocation and that the police had given no warning before terminating the march.

19. Their appeals were dismissed by the higher courts, with a final decision given on 8 May 2015.

20. In 2018 the first applicant was released under an amnesty.

RELEVANT LEGAL FRAMEWORK

21. Article 258 of the former Criminal Code (in force from 1 August 2003 until 30 June 2022) provided as follows:

> "1. Hooliganism, [namely] a gross and intentional violation of public order manifested through an expressly disrespectful attitude towards society, is punishable by a fine of up to fifty times the fixed minimum wage or detention of up to one month.
>
> 2. The same act, which is accompanied by the use of violence against a person or the threat of such violence, as well as the destruction or damage of property, is punishable by a fine ranging from 100 to 300 times the fixed minimum wage, or by detention for a period of one to three months, or by imprisonment for a period of up to two years.
>
> 3. The act specified in the second part of this article, which
>
> (1) was committed in concert by a group of persons or an organised group;
>
> (2) was accompanied by resistance shown to a public official or a person carrying out public order duties or preventing a violation of public order;
>
> ...
>
> is punishable by a fine ranging from 200 times to 500 times the minimum wage, or by imprisonment for a period of up to five years.
>
> 4. The act specified in the second or third paragraphs of this Article, committed with the use of weapons or objects used as weapons, is punishable by imprisonment for a period of four to seven years."

22. Article 268 § 1 provided, *inter alia*, that possession of psychoactive substances in substantial amounts, without the intent to distribute, was punishable by detention for a period of up to two months or imprisonment for a period of up to one year.

23. Article 316 § 1 provided, *inter alia*, that the use of violence that risked the health of a State authority, in connection with the performance of their official duties, was punishable by a fine ranging from 200 times to 500 times the minimum wage, or by detention for a period of up to one month, or imprisonment for a period of up to five years.

COMPLAINT

24. The applicants complained that the disruption of the protest march by the police and their ensuing convictions had breached their right to freedom of assembly, as guaranteed by Article 11 of the Convention.

THE LAW

25. Article 11 of the Convention provides as follows:

> "1. Everyone has the right to freedom of peaceful assembly...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others..."

26. The Government asserted that the protest march of 5 November 2013 had not been peaceful. They referred to the first applicant's statements made prior to the protest march, threatening to use explosives and to burn down the President's office. The applicants had been armed – they had procured wooden batons and explosives prior to the protest – and their resistance had led to police officers on duty being injured. According to the Government, that fact, coupled with the criminal conduct attributed to each of the applicants, meant that the applicants could not rely on the protection of Article 11 of the Convention. The police had had to intervene because of the applicants' criminal behaviour. Alternatively, should the Court find that Article 11 applied, the Government argued that there had been no breach of the applicants' right to freedom of assembly because they had not been convicted for their participation in the march in question, but for their criminal behaviour during the march.

27. The applicants contested the Government's assertion that the protest march had not been peaceful. They submitted that, while polemic and organised in a political context, the first applicant's speech could not be interpreted as a call to violence – it was out of the question that a dozen or so protesters could actually have burned down the President's office. Prior to the

protest march the first applicant had announced that there had been *agents provocateurs* among the protesters and had called on the police to not let them disrupt the march. The applicants pointed out that the police had perceived the sit-in and march as peaceful, which the officers had admitted when giving their testimony (see paragraph 14 above). Had the police decided that the applicants had violent intentions, nothing would have prevented the officers from confiscating their batons and explosives. The applicants stated that they had been armed with batons only to ensure their own safety and had acted in self-defence when the police had used force. In fact, prior to the march they had announced that they would fight back should force be used against them. The applicants had used their explosives to free their leader (that is, the first applicant) whom one of the police officers had grabbed by the throat; they had not thrown their explosives in the direction of the police. Only two plainclothes officers had been injured as a result of the confrontation; however, the applicants had not perceived them as police officers but as *agents provocateurs*. In conclusion, the applicants argued that the protest march had initially been peaceful – the applicants had not used their batons or explosives prior to the march – and the situation had only descended into clashes between the applicants and the police as a result of the provocative behaviour of the latter. Referring to the lengthy prison terms imposed on them by the trial court, the applicants asserted that their conviction had amounted to a disproportionate interference with their right to freedom of assembly.

28. The Court refers to the general principles regarding the right to freedom of assembly summarised in *Kudrevičius and Others v. Lithuania* ([GC], no. 37553/05, §§ 91-92, 100, 108-10 and 140-60, ECHR 2015).

29. It reiterates that Article 11 of the Convention only protects the right to "peaceful assembly", a notion which does not cover a demonstration where the organisers and participants have violent intentions. The guarantees of Article 11 therefore apply to all gatherings except those where the organisers and participants have such intentions, incite violence or otherwise reject the foundations of a democratic society (ibid., § 92).

30. In the present case the Court is called upon to determine whether the applicants may claim the protection of Article 11 of the Convention. To this end, the Court will apply the relevant criteria established in its case-law. Namely, it will take into account the following three elements: (i) whether the demonstration was intended to be peaceful, or whether the organiser had violent intentions; (ii) whether the applicants demonstrated violent intentions when joining the assembly; and (iii) whether the applicants inflicted bodily harm on anyone (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 491, 21 January 2021).

31. In order to ascertain whether the first applicant – as the organiser of the protest march – had violent intentions, the Court needs to examine his speech and its context, as well as the nature of the assembly which he had

convened (compare *Osmani and Others v. the former Yugoslav Republic of Macedonia* (dec.), no. 50841/99, 11 October 2001).

32. Specifically, it transpires from the evidence available to the Court that the first applicant organised a protest because he had been dissatisfied with the political and social situation in Armenia and wanted to bring a change. Prior to the march, he made inflammatory statements that could be interpreted as an incitement to violence. This is especially true for the passages such as: "...We want to start a revolution, namely, to seize the President's office[...] the National Security Service, the Ministry of Internal Affairs, the Prosecutor General's Office and the Constitutional Court ..."; "My child is going to fight alongside me ... if [the police] shoot me, let them shoot"; "... [Hit] the cops in the head with your baton"; "Yeah, we should go, what else can we do; [with] petrol bottles, I will not just torch the President's office but I will burn it down"; "I want to announce something: apart from petrol bottles, stones, wooden sticks, slingshots, permanganic acid [and] bronze, we haven't yet brought any other weapons"; "If firearms or guns come at us, whoever survives among us will fight them with firearms and guns"; "I'm telling the police, if they don't bring [them] to [their] senses, we won't ask for your help; we'll smash [them] with batons right during the march" (see paragraphs 7-10 above).

33. Although the first applicant was a political figure and made the above-mentioned statements in a political context, they were not merely expressions of figurative speech. In fact, the first applicant made explicit references to violence in his speech and stated in unequivocal terms that he intended to take over government buildings. While it seems unlikely that the threat could have been carried out, all the more so as the applicants were only lightly armed, the first applicant did not put forward any plausible argument that would allow the Court to interpret those statements as mere catchphrases or having a non-violent meaning (compare *Gül and Others v. Turkey*, no. 4870/02, § 41, 8 June 2010, and *Karpyuk and Others v. Ukraine*, nos. 30582/04 and 32152/04, § 222 and 226, 6 October 2015). In the absence of any such argument, the Court considers that these statements, on the face of it, were advocating violence.

34. The Court further observes that with the help of the seventh applicant, the first applicant procured wooden batons and improvised explosives, which the protesters were to carry with them during the march for self-defence (see the applicants' submissions in paragraphs 15 and 27 above). Although the police did not confiscate the applicants' equipment, the reason for this appears to have been that they had perceived the wooden batons as symbolic for the march (see paragraph 14 above) and only found out about the explosives later, during the clashes. However, it has not been shown that the batons had a meaning related to the message the march sought to express. It thus appears that the batons were a means of inflicting harm or intimidating others, thus signalling a readiness for confrontation, which is at odds with the

idea of peaceful assembly. Moreover, while the improvised explosives used by the applicants were not lethal, their only possible purpose could have been to create panic and disorient the police, and they were used for such purposes, as admitted by the applicants defence (see paragraphs 15 and 27 above). The first applicant therefore not only made inflammatory statements, threatening to resort to violence if the conditions were not favourable, but also armed his supporters apparently for that very purpose.

35. The Court has previously held that the mere fact that acts of violence occur in the course of a gathering cannot, of itself, be sufficient to find that its organisers had violent intentions (see *Karpyuk and Others*, cited above, § 202). However, in the present case the existence of violent intentions is demonstrated not only by the later clashes that occurred between the protesters and the police, but also by the first applicant's statements before the protest march and by the fact that all the applicants were armed. The fact that the police officers escorted the march and allowed it to proceed does not detract from the finding that the intention of the organiser was not peaceful from the outset (contrast *Çiçek and Others v. Türkiye*, nos. 48694/10 and 4 others, §§ 137-38, 22 November 2022).

36. As regards the remaining applicants, they were supporters of the first applicant and, being aware of the risks of using batons and explosives, including the possible criminal liability that such conduct might entail, they agreed to use them if necessary, as was later demonstrated by the clashes that occurred between the protesters and the police.

37. Lastly, three uniformed police officers and two plainclothes officers suffered injuries as a result of the clashes. The applicants appeared to deny causing any bodily harm to the uniformed officers and argued that the clashes had been provoked by the police because they had used force, in which circumstances the applicants' recourse to force had been justified. In that connection the Court observes that the confrontation between the protesters and the police was triggered when one of the police officers grabbed the first applicant by his arm in an attempt to stop him from marching on the road. However, there is nothing to indicate that the threats and violence on the part of the protesters – after the police officers' intervention – by inflicting blows with batons and the use of explosives, can be explained as a "normal" reaction. The Court further notes that there is no evidence in the case file that the first applicant was grabbed by the throat – one of the police officers had simply tried to isolate him by grabbing him by his arms – or that any of the applicants suffered injuries as a result of the use of force by the police to disperse and arrest the protesters.

38. Having regard to all the elements set out in the preceding paragraphs, the Court finds that the protest march of 5 November 2013 fell outside the notion of "peaceful assembly" protected by Article 11. It follows that the applicants' complaint under Article 11 is incompatible *ratione materiae* with

the provisions of the Convention within the meaning of its Article 35 § 3(a) and that the application must be declared inadmissible.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 May 2025.

Victor Soloveytchik Registrar	Mattias Guyomar President

Appendix

List of applicants:

Application no. 45401/15

No.	Applicant's Name	Year of birth	Place of residence
1.	Shant HARUTYUNYAN	1965	Yerevan
2.	Misak ARAKELYAN	1965	Masis
3.	Avetis AVETISYAN	1988	Sevan
4.	Hayk HARUTYUNYAN	1973	Hrazdan
5.	Shahen HARUTYUNYAN	1999	Yerevan
6.	Albert MARGARYAN	1965	Sevan
7.	Vahe MKRTCHYAN	1972	Kosh village
8.	Sevak MNATSAKANYAN	1988	Yerevan
9.	Liparit PETROSYAN	1965	Kosh village
10.	Alek POGHOSYAN	1970	Kosh village
11.	Vardan VARDANYAN	1965	Yerevan