



Deaths in 2008 mass protests in Yerevan the result of indiscriminate and disproportionate police force

The case [Farmanyan and Others v. Armenia](#) (application no. 15998/11 and 8 others) concerned deaths that occurred during the mass protests in Yerevan after the 2008 presidential elections.

The applicants in the case are the relatives of nine of the victims, eight civilians and one military conscript. Most were shot or hit by tear-gas grenades in violent clashes that took place between the police and protestors in the evening of 1 March 2008.

In today's Chamber judgment¹ the European Court of Human Rights held, unanimously, that there had been a **violation of Article 2 (right to life)** of the European Convention on Human Rights in respect of seven of the victims. They had been killed because of a badly planned and executed police operation, which had led to the police firing tear-gas grenades in breach of safety rules and to the indiscriminate and disproportionate use of such highly lethal weapons as AK-74 assault rifles and Makarov pistols.

The Court also held, unanimously, that there had been **no violation of Article 2 of the European Convention** in respect of the remaining two victims. One victim died from a head wound from an unidentified object, while the other had been shot and died in unknown circumstances.

The Court held, unanimously, however, that there had been a **violation of Article 2** with regard to the investigation into the deaths of *all* the applicants' relatives. The investigative measures taken had been few or meaningless, the applicants had been kept in the dark about developments and overall there had been an impression of political bias.

Lastly, the Court held, unanimously, that Armenia had failed to comply with its obligations under **Article 38 (obligation to furnish necessary facilities for the examination of the case)** of the Convention because it had only submitted the bare minimum of documents from the case file.

Principal facts

The 17 applicants, all Armenian nationals when lodging their applications, are the relatives of eight civilians and one military conscript who died from injuries sustained during the mass protests in Yerevan.

Nationwide rallies, alleging election irregularities, broke out after the February 2008 presidential election. Daily demonstrations were held in the centre of Yerevan, in particular at Freedom Square, where the protestors also set up a camp.

On 1 March in the early hours, the police broke up the camp, triggering clashes. Several thousand protestors gathered in the area of the Myasnikyan monument. Later in the day intense and violent clashes took place between protestors and the police in the adjacent streets which continued until midnight. Ten died, numerous people were injured and a state of emergency was declared.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

All nine deaths occurred in the area adjacent to the main gathering at the Myasnikyan monument, where clashes had been fiercest.

In particular, Armen Farmanyan, aged 33, and Tigran Khachatryan, aged 23, both died on 1 March 2008, after suffering head injuries from tear-gas grenades. Gor Kloyan, aged 28, was also injured by a tear-gas grenade on the left side of his groin, and died on 2 March 2008 from acute blood loss.

Five others were killed by live bullets. Hovhannes Hovhannisyanyan, aged 47, Grigor Gevorgyan, aged 27, and Davit Petrosyan, aged 32, were shot when the most violent confrontations had occurred between protestors and the police on 1 March 2008 from 9 to 9.30 pm. Hovhannes Hovhannisyanyan and Grigor Gevorgyan were both shot dead, while Davit Petrosyan suffered a gunshot wound to his back and died the next day. Tigran Abgaryan, aged 19, a military conscript who was on duty that evening, received a gunshot wound to the neck around 11 p.m. and had surgery, but his condition deteriorated and he died on 11 April 2008. Zakar Hovhannisyanyan, aged 30, was shot in the abdomen around 1.30 a.m. on 2 March 2008 and died during surgery.

Samvel Harutyunyan, aged 28, was injured in the head by an unidentified blunt object on 1 March 2008 and taken to hospital. He died on 11 April 2008 without regaining consciousness.

Criminal proceedings were instituted in the immediate aftermath of these tragic events against the leaders and supporters of the political opposition for organising mass disorder resulting in murder. According to the Government, a massive amount of material was collected, consisting of more than 100 000 pages, including autopsies, ballistic examinations and interviews with the police and witnesses, as well as video recordings.

In July 2009 a criminal case was also instituted against four officers of the Police Troops who had fired the fatal tear gas grenades for the involuntary manslaughter of Armen Farmanyan, Tigran Khachatryan and Gor Kloyan. These proceedings were apparently not pursued.

In July 2018 another new criminal case was instituted and charges brought against a number of former high-ranking officials, including former President Kocharyan. The accusations against them included overthrowing the constitutional order of Armenia in the period 23 February to 3 March 2008 and unlawfully involving the armed forces in political processes. The outcome of those proceedings, however, is unknown, while the charges against the former President were dropped in April 2021.

Despite these criminal proceedings, no judicial determination has ever taken place at national level of the deaths of the applicants' relatives.

In the meantime, in 2010 the applicants had unsuccessfully lodged complaints with the authorities alleging a failure to carry out an effective investigation into the deaths of their relatives, delays in recognising them as victims and a lack of access to the case file.

A parliamentary inquiry had also been launched into the events and more specifically whether the police's actions had been lawful and proportionate. It found that a lack of safety instructions had contributed to the improper use of tear-gas launchers and, overall, concluded that "in technical, organisational and moral-psychological terms the police [were] not adequately prepared to prevent the mass disorder and similar difficult situations.", pointing to a number of specific failures.

Complaints, procedure and composition of the Court

Relying in particular on Article 2 (right to life) of the Convention, the applicants alleged that their relatives had been killed as a result of excessive use of force, pointing also to shortcomings in the planning and control of the police operation, and that the ensuing official investigation had been inadequate.

They also complained under Article 38 (obligation to provide all necessary facilities for the examination of the case) that the Armenian Government had failed to submit copies of documents related to the criminal investigation and parliamentary inquiry asked for by the Court, despite its requests.

The applications were lodged with the European Court of Human Rights on 28 February 2011.

Judgment was given by a Chamber of seven judges, composed as follows:

Kateřina Šimáčková (the Czech Republic), *President*,
María Elósegui (Spain),
Georgios A. Serghides (Cyprus),
Tim Eicke (the United Kingdom),
Diana Sârcu (the Republic of Moldova),
Mykola Gnatovskyy (Ukraine) and,
Anna Margaryan (Armenia), *ad hoc Judge*,

and also Victor Soloveytchik, *Section Registrar*.

Decision of the Court

[Article 2 \(deaths of the applicants' relatives\)](#)

Firstly, the Court found that it could not establish whether the State had been responsible for the death of Samvel Harutyunyan, who had died after being struck by an unidentified object. That object could have been a tear-gas grenade launched by the police, but it could also have been objects thrown by a protestor such as a stone or Molotov cocktail. It therefore held that there was insufficient proof that the State was responsible for his death.

It went on to note that the parties either did not dispute, or that it had been established beyond reasonable doubt, that the eight other victims had been killed by tear-gas grenades or live bullets fired by the police forces. There was no evidence that the protestors had been armed with anything other than improvised objects, while the police had been equipped with (and had used) AK-74 assault rifles, Makarov pistols and Soviet-made Cheremukha-7 tear-gas grenades.

The use of lethal force could be justified in certain circumstances under the European Convention, including to quell a riot or insurrection. However, firing 1,405 units of 5.45mm tracer bullets to scare and disperse protestors as detailed in one of the few documents submitted by the Government had been grossly disproportionate. Such indiscriminate and random use of highly lethal firearms had been unacceptable, especially compared to the amount of non-lethal weapons used, namely 280 blank cartridges and 191 rubber bullets. Moreover, the police had only attempted to disperse the crowd by water cannon after firing powerful, potentially lethal weapons, using first what should have been a measure of last resort.

Five of the applicants' relatives had been killed by live bullets in the area where the clashes had been fiercest. Hovhannes Hovhannisyan and Grigor Gevorgyan had been directly shot with tracer bullets fired by the police forces. Davit Petrosyan had been shot with a bullet fired from a Makarov pistol and Tigran Abgaryan with an unidentified bullet: the Court considered that both had in all likelihood been ricochet shots or a stray bullet, resulting from the indiscriminate use of force used by the police forces during the clashes.

The Court concluded that the deaths of these four applicants' relatives had been the result of a badly planned and executed operation involving the improper use of crowd-control weapons and the indiscriminate and disproportionate use of lethal force. Notably, the police intervention at Freedom Square had clearly been an escalatory measure, and deterioration in public order could have been expected. However, no contingency plan had been put in place. Such lack of preparation

had resulted in the police, including young military conscripts who probably did not have the training and experience required for dealing with large-scale demonstrations, resorting to increasingly lethal weapons without it being “absolutely necessary”, in violation of Article 2.

On the other hand, the Court found that it did not have sufficient evidence for a violation of Article 2 in the case of Zakar Hovhannisyan’s shooting, the fifth victim. Although he had been shot in the same location as the other four victims, it had taken place at 1.30 a.m., and there was insufficient information in the case file as to this period of time for the Court to come to any firm conclusions.

As concerned the three deaths caused by tear-gas grenades, the Court was not convinced by the Government’s ricochet hypothesis. The tear-gas grenade launchers had clearly not been properly used, given the severity and location of the injuries (at head and human-waist height). They had most likely been shot from shoulder- or waist-mounted launchers on a direct and flat trajectory (rather than aimed into the air). The Cheremukha-7 tear-gas grenades themselves had not been intended for use in open spaces and, dating from the Soviet era and long expired, had not functioned properly. Moreover, it was not clear whether the police forces, which had included young inexperienced military recruits, had had clear and detailed instructions on the use of the grenades, whether they had been trained, or whether they had been properly supervised during the demonstrations.

All these elements had contributed significantly to the improper use of crowd-control weapons in breach of safety rules, which had resulted in the unnecessary deaths of Armen Farmanyan, Tigran Khachatryan and Gor Kloyan, in violation of Article 2.

Article 2 (investigation into the deaths)

First, the Court found that the investigation, mainly targeting the political opposition rather than police actions, had given an impression of political bias. Several police officers had been involved in producing the most vital evidence, such as the ballistic reports, which further compromised the independence of the investigation. The Court found it hard to believe that these officials could act independently in an investigation involving so many colleagues, including high ranking superiors.

Secondly, very little had been done to identify those responsible for the deaths and the circumstances in which they had occurred. The few investigative measures taken, such as the autopsies and ballistic examinations, had not led to any meaningful assessment or follow up.

In particular, as concerned the deaths caused by Cheremukha-7 tear-gas grenades, it had taken the authorities one year and four months to bring a criminal case, despite the fact that only four officers of the Police Troops had been equipped with such crowd-control weapons and they could have been easily identified. The Court had no evidence before it to show that these officers had been interviewed and no other relevant evidence had been secured.

Nor had there been any serious attempts to identify and question the police forces who had used AK-74 assault rifles and Makarov pistols during the quelling of the protests. No proper steps had been taken to trace the bullets which had been removed from the bodies of three of the victims to the weapons which had fired them, or to establish exactly what had happened to those who had been killed by bullets which had never been recovered or by an unidentified object.

The Court underlined that although the Government had referred to hundreds of interviews, to records of examination of the scenes, to photographs and to video-recordings totalling dozens of hours, none or very little of this evidence had actually been submitted to the Court.

It also noted a lack of public scrutiny and effective participation in the investigation. The applicants had been effectively excluded from the domestic procedures, and kept almost entirely in the dark about any developments, except for some initial forensic examinations.

