



Conviction of five farmers for blocking highways was not disproportionate

In today's **Grand Chamber** judgment¹ in the case of [Kudrevičius and Others v. Lithuania](#) (application no. 37553/05) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights.

The case concerned the conviction for rioting of five farmers, who were given a suspended sentence of sixty days' imprisonment, on account of demonstrations organised by them which seriously breached public order.

According to the Court's case-law, the intentional serious disruption, by demonstrators, to ordinary life and to the activities lawfully carried out by others, to a more significant extent than that caused by the normal exercise of the right of peaceful assembly in a public place, might be considered a "reprehensible act". The Court found that even though the applicants had neither performed acts of violence nor incited others to engage in such acts, the almost complete obstruction of three major highways in blatant disregard of police orders and of the needs and rights of the road users constituted conduct which, even though less serious than recourse to physical violence, could be described as "reprehensible".

Bearing in mind the margin of appreciation to be afforded to the State in such circumstances, the Court found in particular that the State was clearly entitled to consider that the interests of protecting public order outweighed those of the applicants in resorting to roadblocks as a means for the farmers to achieve a breakthrough in their negotiations with the government.

Principal facts

The five applicants, Arūnas Kudrevičius, Bronius Markauskas, Artūras Pilota, Kęstutis Miliauskas and Virginijus Mykolaitis, are Lithuanian nationals, who were born in 1970, 1960, 1973, 1959 and 1961 and live, respectively, in the villages of Vaitkūnai, Utena region, Triušeliai, Klaipėda region, Ožkasviliai, Marijampolė region, Jungėnai, Marijampolė region, and Varakiškė, Vilkaviškis region. They are all farmers.

On 15 April 2003 a group of farmers held a demonstration in front of the Lithuanian Parliament building to protest about a fall in wholesale prices for various agricultural products and the lack of subsidies for their production, demanding that the State take action.

On 16 May 2003 the Chamber of Agriculture, an organisation established to represent the interests of farmers, met to discuss possible actions and decided to organise protests in three different locations next to the country's major highways.

On 21 May 2003 the farmers set up roadblocks and continued their protest on the Vilnius-Klaipėda highway, the Panevėžys-Pasvalys-Riga highway, and the Kaunas-Marijampolė-Suvalkai highway. According to the Government, the police had not received any prior official notification of the demonstrators' intention to block those major roads. On 23 May 2003, following the successful outcome of their negotiations with the government, the farmers lifted their roadblocks.

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Pre-trial investigations against the applicants and a number of other persons, on suspicion of having caused a riot, were initiated. In July 2003 four of the applicants were ordered not to leave their places of residence. That measure was lifted in October 2003.

On 4 December 2003 an indictment was laid by the public prosecutor before the courts. Mr Kudrevičius and Mr Markauskas were charged with incitement to rioting. Mr Pilota, Mr Miliauskas and Mr Mykolaitis were charged with serious breaches of public order during the rioting. Within the criminal proceedings, a logistics company brought a civil claim against Mr Kudrevičius, as the person who had incited the farmers to block the Panevėžys-Pasvalys-Riga highway, seeking damages.

On 29 September 2004 the Kaunas City District Court found the applicants guilty of having incited riots or having participated in them, under Article 283 § 1 of the Criminal Code. The five applicants were each given a sixty-day custodial sentence, suspended for one year. The applicants were ordered not to leave their places of residence for more than seven days without the authorities' prior agreement.

On 18 October 2004 the applicants appealed before the Regional Court of Kaunas.

On 14 January 2005 the Kaunas Regional Court found that the District Court had thoroughly and impartially assessed all the circumstances of the case and held that the conviction and sentence of Mr Pilota, Mr Miliauskas and Mr Mykolaitis had been reasonable. Whilst noting that the applicants had the right to freedom of expression, the Regional Court nevertheless observed that such right was not without restrictions, should the interests of public order and prevention of crime be at stake.

On 2 March 2005 the applicants appealed on points of law. On 4 October 2005 the Supreme Court, composed of an enlarged chamber of seven judges, dismissed the appeal.

Complaints, procedure and composition of the Court

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the applicants alleged that their conviction had entailed a violation of their rights under those Articles.

The application was lodged with the European Court of Human Rights on 8 October 2005. On 26 November 2013 a Chamber of the Court's Second Section delivered a judgment. It found by four votes to three that there had been a violation of Article 11 and that the respondent State was to pay 2,000 euros (EUR) to each of the applicants in respect of non-pecuniary damage. On 26 February 2014 the Government requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 14 April 2014 the panel of the Grand Chamber accepted that request.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Josep Casadevall (Andorra),
Elisabeth Steiner (Austria),
Angelika Nußberger (Germany),
Boštjan M. Zupančič (Slovenia),
George Nicolaou (Cyprus),
Luis López Guerra (Spain),
Mirjana Lazarova Trajkovska ("the former Yugoslav Republic of Macedonia"),
Ganna Yudkivska (Ukraine),
Vincent A. de Gaetano (Malta),
André Potocki (France),
Helena Jäderblom (Sweden),
Aleš Pejchal (the Czech Republic),

Johannes **Silvis** (the Netherlands),
Krzysztof **Wojtyczek** (Poland),
Egidijus **Kūris** (Lithuania),
Jon Fridrik **Kjølbrot** (Denmark),

and also Søren **Prebensen**, *Deputy Grand Chamber Registrar*.

Decision of the Court

[Article 11 \(freedom of assembly and association\)](#)

The Court reiterated that the right to freedom of assembly was a fundamental right in a democratic society and, like the right to freedom of expression, one of the foundations of such a society.

However, Article 11 of the Convention protected only the right to “peaceful assembly”, applying to all gatherings except those where the organisers and participants had violent intentions, incited violence or otherwise rejected the foundations of a democratic society. The Court observed that the applicants had not been convicted for any involvement in or incitement to violence, but for the breaches of public order resulting from the roadblocks.

The Court notes that the applicants’ conviction had a legal basis in Lithuanian law, namely Article 283 § 1 of the Criminal Code, which prescribed punishment for the offence of rioting. The application of that provision was, moreover, foreseeable, as it should have been clear to the applicants that the fact of disobeying the lawful orders of the police could engage their responsibility. The impugned interference was thus “prescribed by law”. The Court was of the opinion that the applicants’ conviction pursued the legitimate aims of the “prevention of disorder” and the “protection of rights and freedoms of others”.

The farmers had been authorised to demonstrate in designated locations. The Lithuanian authorities had thus given their express prior authorisation for the gatherings to be held. From 19 May to midday on 21 May 2003 the farmers gathered in the agreed places and were able to hold a peaceful demonstration without interference by the authorities.

However, at around midday on 21 May 2003, following a stagnation of negotiations with the government, the farmers decided to move the gatherings from the designated areas, agreed beforehand with the police, onto the neighbouring roads, in particular the Vilnius-Klaipėda highway, the Panevėžys-Pasvalys-Riga highway, and the Kaunas-Marijampolė-Suvalkai highway, the country’s three major highways. On the same day Mr Pilota, Mr Miliauskas and Mr Mykolaitis drove tractors onto the Kaunas-Marijampolė-Suvalkai highway and left them on the asphalt carriageway, thus obstructing the flow of traffic.

The moving of the demonstrations from the authorised areas onto the highways was a clear violation of the conditions stipulated in the permits. This action was taken without any prior notice to the authorities and without asking them to amend the terms of the permits. The Court further found that the unauthorised roadblocks had not been justified by a “current event warranting an immediate response”.

The Court had no reason to question the assessment of the domestic courts that the farmers had had at their disposal alternative and lawful means to protect their interests, such as the possibility of bringing complaints before the administrative courts.

As long as the demonstrations took place in the designated locations, the flow of traffic was not affected. The decision of the farmers to move onto the highways and to use the tractors could not but be an attempt to block or reduce the passage of vehicles and create chaos in order to draw attention to the farmers’ needs. The intentional roadblocks could not but have been aimed at pressuring the government to accept the farmers’ demands, as shown by the fact that they were

lifted as soon as the demonstrators had been informed of the successful outcome of the negotiations.

The actions of the demonstrators had not been directly aimed at an activity of which they disapproved, but at the physical blocking of another activity (the use of highways) which had no direct connection with the object of their protest, namely the government's alleged lack of action *vis-à-vis* the decrease in the prices of some agricultural products.

As could be seen from the Court's case-law, the intentional serious disruption, by demonstrators, to ordinary life and to the activities lawfully carried out by others, to a more significant extent than that caused by the normal exercise of the right of peaceful assembly in a public place, might be considered a "reprehensible act". The Court took the view that even though the applicants had neither performed acts of violence nor incited others to engage in such acts, the almost complete obstruction of three major highways in blatant disregard of police orders and of the needs and rights of the road users constituted conduct which, even though less serious than recourse to physical violence, could be described as "reprehensible".

Bearing in mind the margin of appreciation to be afforded to the State in such circumstances, it was clearly entitled to consider that the interests of protecting public order outweighed those of the applicants in resorting to roadblocks as a means for the farmers to achieve a breakthrough in their negotiations with the government.

As to the sanctions imposed on the applicants, the Court noted that each applicant had been given a lenient sixty-day custodial sentence whose execution was suspended. The applicants had not been ordered to pay fines and the only actual consequence of their conviction was the obligation, lasting one year, to obtain authorisation if they wished to leave their places of residence for more than seven days.

The Court concluded that, in sentencing the applicants for rioting, in relation to their behaviour from 21 to 23 May 2003 during the farmers' demonstrations, the Lithuanian authorities had struck a fair balance between the legitimate aims of the "prevention of disorder" and of the "protection of the rights and freedoms of others" on the one hand, and the requirements of freedom of assembly on the other. They had based their decisions on an acceptable assessment of the facts and on reasons which were relevant and sufficient. Thus, they had not overstepped their margin of appreciation in such matters.

Article 7 (no punishment without law)

In its Chamber judgment of 26 November 2013 the Court had considered that it had already examined the main legal issue of the case under Article 11 and that therefore it was not necessary to examine the complaint under Article 7 separately. The Court noted that in their observations before the Grand Chamber the applicants had not specifically addressed the complaint that they had raised before the Chamber under Article 7. That being so, the Court considered that it was not necessary to carry out a separate examination of whether there had been a violation of Article 7.

Separate opinion

Judge Wojtyczek expressed a concurring opinion, which is annexed to the judgment.

The judgment is available in English and French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.