



Dismissal of Armenian civil servants who had been critical of the Government had not violated their right to freedom of expression

In today's **Chamber** judgment¹ in the case of [Karapetyan and Others v. Armenia](#) (application no. 59001/08) the European Court of Human Rights held, by six votes to one, that there had been: **no violation of Article 10 (freedom of expression)** of the European Convention on Human Rights.

The case concerned the dismissal of four high-ranking civil servants in the Armenian Ministry of Foreign Affairs, after they had issued a public statement criticising the Government in the aftermath of the Armenian presidential election of February 2008. They complained that their dismissals had violated their right to freedom of expression.

The Court found in particular that, though civil servants are entitled to freedom of expression, national authorities may restrict their freedom to engage in political activities in order to achieve the aim of having a politically neutral body of civil servants. The Armenian legislation setting out such a restriction had been formulated in a way that was sufficiently clear, and fulfilled the requirements of precision and foreseeability under the European Convention. Furthermore, the use of it to dismiss the applicants had been based on relevant and sufficient grounds. Lastly, though the dismissals had been severe, they had not been disproportionate.

Principal facts

The applicants, Vladimir Karapetyan, Martha Ayvazyan, Araquel Semirjyan and Karine Afrikyan, are Armenian nationals who were born in 1969, 1967, 1973, and 1954 respectively and live in Yerevan. At the relevant time, the applicants occupied different posts within the Ministry of Foreign Affairs: namely, Head of the Press and Information Department; Head of the NATO Division of Arms Control and International Security Department; Counsel of the European Department; and Head of the USA and Canada Division of the American Department. The case concerns their dismissal from office, after they had issued a public statement in the aftermath of the Armenian presidential election of February 2008.

Following the election in question, the opposition candidate Levon Ter-Petrosyan announced that the election had been rigged. Nationwide protests were organised by thousands of his supporters. On 23 February 2008, several ambassadors for Armenia in foreign countries issued a joint statement, expressing support for free and fair elections, and support for the protestors. According to the Armenian Government, the ambassadors were dismissed the next day.

On 24 February 2008, the applicants also issued a joint statement. It expressed "outrage against the fraud of the election process", and demanded the enactment of recommendations that had been made by international organisations. The names of the applicants, with their respective job titles, appeared under the statement. It was reported by several mass media outlets.

On 25 February 2008 and 3 March 2008, the Minister for Foreign Affairs of Armenia adopted decrees dismissing the applicants from office. As a ground for the dismissals, the decrees referred to sections

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.

40 and 44 of the Diplomatic Service Act, containing a description which stated that a diplomat had no right to use his official capacity and work facilities for the benefit of parties and non-governmental organisations, or in order to carry out other political or religious activity.

The applicants instituted civil proceedings, challenging their dismissal and seeking their reinstatement. In particular, the applicants argued that the decrees had identified no particular instance when they had acted in a way that was contrary to the Act; and that it was unlawful to dismiss someone on the grounds of their convictions or opinions.

The Administrative Court dismissed the claim on 29 May 2008. The court held that the applicants' dismissal was lawful because, by making the statement, they had in essence engaged in political activity. Furthermore, the court found that the statement had concerned political processes, because it contained a political assessment of the election and related events; that by indicating their job titles, the applicants had made use of their official capacities; and that their dismissal had been compliant with the Constitution. The applicants appealed, but their appeal was ruled inadmissible by the Court of Cassation on 23 September 2008.

Complaints, procedure and composition of the Court

Relying in particular on Article 10 (freedom of expression), the applicants complain that their dismissals from office violated their right to freedom of expression.

The application was lodged with the European Court of Human Rights on 29 November 2008.

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

Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"), *President*,
Kristina **Pardalos** (San Marino),
Linos-Alexandre **Sicilianos** (Greece),
Paul **Mahoney** (the United Kingdom),
Aleš **Pejchal** (the Czech Republic),
Robert **Spano** (Iceland),
Armen **Harutyunyan** (Armenia),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

[Article 10 \(freedom of expression\)](#)

The Court found that the applicants' dismissal from their posts as a result of the statement had amounted to an interference with their right to freedom of expression. The applicants accepted that the dismissal had been carried out in pursuit of a legitimate aim (namely, protecting national security, public safety and public order). However, they maintained that their dismissal had not been prescribed by law, and had not been necessary in a democratic society.

Whether the interference had been prescribed by law

The Court found that the Armenian legislation had been sufficiently clearly formulated in order to fulfil the requirements of precision and foreseeability under the Convention. In particular, the relevant provisions of the Diplomatic Service Act had stated that a diplomat shall be dismissed from office if he violates the restrictions set out in section 44, subsection 1, point (c). The Administrative Court had apparently found that the applicants' letter had amounted to conduct falling under two categories of restricted behaviour contained in the provision. These were "other political activity", and "use of official capacity and work facilities for the benefit of parties and non-governmental

organisations.” Whilst noting that “other political activity” was more vague, the Court held that both categories were sufficiently clear and foreseeable. In particular, the applicants must have known that publishing the letter could be considered to come under the restricted provisions; and if they had had any doubts about the scope of the legislation, they should either have obtained legal advice, or refrained from issuing their statement.

Whether the interference had been necessary in a democratic society

The Court noted that the applicants had released a statement that had made explicit reference to their official titles, in which “outrage” was expressed “against the fraud of the election process”, and a “demand” was put forward that “urgent steps be undertaken to call into life the recommendations” of international reports. Given this, the Court could not call into question the relevance of the Administrative Court’s finding, that the statement had concerned “political processes as it contained a political assessment of election and post-election events”. Furthermore, the domestic court had taken into account the applicants’ right to freedom of expression in its overall assessment of the case, in a manner that conformed sufficiently with the requirements of the Convention.

The Court noted that the dismissals had taken place during a political crisis, and reiterated that civil servants are entitled to freedom of expression. However, the Court also noted that national authorities may restrict the freedom of civil servants to engage in political activities, in order to achieve the aim of having a politically neutral civil service. Given the circumstances of this case, the Court considered that no evidence had been adduced that could call into question the Government’s assessment of this matter. Furthermore, though the dismissal of the applicants had been a severe measure, it had not been disproportionate.

The Court therefore held that the dismissals had been based on relevant and sufficient grounds, and had been proportionate to a legitimate aim. There had therefore been no violation of Article 10.

Separate Opinions

Judges Sicilianos and Mahoney expressed a concurring opinion, whilst Judge Lazarova Trajkovska expressed a dissenting opinion. The separate opinions are annexed to the judgment.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court’s press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

George Stafford (tel: + 33 3 90 21 41 71)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

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.