

ECHR Decisions on Demonstrations, Riots and Protests

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THIS CASE DIGEST PROVIDES SUMMARIES OF DECISIONS relating to demonstrations, riots, and protests delivered by the European Court of Human Rights between January 2013 and October 2014.

ECtHR Case Summaries: Demonstrations, Riots and Protests

This Case Digest collects summaries of cases brought before the European Court of Human Rights relating to demonstrations, riots, and protests. Though most of these cases were brought under Article 11 (right to freedom of assembly), it is important to note that some of these cases have been brought under different articles. The cases have been organized in reverse chronological order, starting with the most recent. The list includes relevant cases decided between January 2013 and October 2014.

All facts of the cases have been taken from official press releases or case summaries issued by the European Court of Human Rights.

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2014

Primov and Others v. Russia

12 June 2014, Application no. 17391/06

Violation of Article 11 for refusal to hold assembly but no violation of Article 11 for dispersal of assembly or applicant's subsequent arrest.

Facts. The case concerned the banning and dispersal by the police of a demonstration, held on 25 April 2006 in and near the villages of Usukhchay and Miskindzha in Dagestan, to criticize the work of the head of the local administration and to protest against corruption. The organizers had sent written notice of the protest, but authorities refused to authorize it on three grounds: the notice had not been filed within the five day window fixed by the Public Gatherings Act, the park could not hold the number stipulated in the notice (500 people), and the allegations of the protesters concerning corruption were false and had been refuted by an official investigation. A police blockade was set up to stop the protesters from entering the village in which they had proposed to hold the protest. The protesters marched to a neighboring village and blocked a federal road. When the police tried to clear the protest, some of the protesters started throwing stones and violence erupted between police and protesters. By the end of the clashes, several civilians and police officers were injured and one civilian had died. One of the applicants was later arrested in connection with this event and held in pretrial detention for almost two months before being released.

According to two of the applicants, Niyaz Primov and Bunyam Askerov, who participated in the protest, the police fired with rifles over protesters' heads and used tear gas and smoke bombs to disperse the demonstration. Niyaz and Bunyam were arrested and placed in pretrial detention a few days after the event—the former on suspicion of having incited demonstrators to block the road and the latter on suspicion of having been involved in another scuffle with the police in the village of Khiv a few days before the demonstration. They both remained in pretrial detention for nearly two months before the charges against them were dropped. A third man, Nasir Dzhavadov, was also arrested for his alleged involvement in the scuffle in Khiv and remained in detention for nearly two months.

Relying in particular on Article 11 (freedom of assembly and association), the applicants complained about the authorities' refusal to allow the demonstration, the violent dispersal of the event, and their arrests.

Reasoning. In determining whether the dispersal of the demonstration was justified, the court first examined and rejected the initial grounds on which the authorities had refused to allow the demonstration. The Public Gatherings Act was ambiguous on the time limit—a time limit that was in any case very short. The protest organizers could be excused for misinterpreting it, and had made a reasonable effort to comply with such a tough requirement. Secondly, the size of the park could not justify a total ban of the demonstrations; the authorities should have proposed an alternative venue. Thirdly, banning a demonstration on the grounds of its message can only be justified under Article 11 in very rare situations; authorities should not have the power to ban a

demonstration simply because they do not agree with its message, especially when that authority is the target of the criticism. Therefore, the initial decision to ban the demonstration was unjustified and in violation of Article 11.

The court then considered the later dispersal of the demonstration. It first considered the blockade of the village. Though the blockade itself was lawful and pursued the legitimate aim of preventing disorder and crime, it was not proportionate to the legitimate aim pursued. The temporary blocking of a main road and the risk of clashes were insufficient to justify the authorities' complete blockade of the village, especially since the demonstration was peaceful before the clash between police and demonstrators near the neighboring village. Therefore, the blockade had been in violation of Article 11.

However, even if the decision to ban the demonstration was erroneous, and the blockade disproportionate, that did not give the protesters the right to block a federal road or attack the police. Consequently, the police intervention could be justified. Considering that a number of protesters had acted with violence against the police, the use of special equipment or firearms did not seem unjustified, and there was no evidence that the firearms had been used deliberately to kill or wound.

As regards the Primov arrest, the authorities had genuinely suspected him of having incited attacks against the police, so his arrest and detention had a lawful basis and pursued the legitimate aim of preventing disorder or crime. The arrests of Askerov and Dzhavadov however, concerned separate events and were clearly ill-founded.

The court consequently found a violation of the applicants' rights under Article 11, as the authorities had made it impossible for them to hold their proposed protest. The court did not find a violation in regards to the subsequent police intervention, and no violation in respect of the arrest of Primov.

The government's submission for referral to the Grand Chamber was rejected in [October 2014](#).

Link to [full judgment](#)

Taranenko v. Russia

15 May 2014, Application no. 19554/05

Violation of Article 5 § 3 (right to trial within a reasonable time) and Article 10 (freedom of expression) in light of Article 11 (freedom of assembly).

Facts. The case concerned the detention and conviction of a participant in a protest against the politics of Russian President Vladimir Putin in 2004, organized by the National Bolsheviks Party. Yevgeniya Taranenko was part of a group of about 40 people forced their way through identity and security checks into the reception area of the president's administration building and locked themselves in one of the offices, where they started to wave placards and distribute leaflets out of

the windows. Taranenکو was charged with participation in mass disorder and remanded in custody for a year, at the end of which time she was convicted as charged and sentenced to three years' imprisonment, suspended for three years.

Reasoning. The court underlined that the protest, although involving some disturbance of public order, had been largely non-violent and had not caused any bodily injuries. The court found in particular that while a sanction for Taranenکو's actions might have been warranted by the need for public order, her detention pending trial of almost one year and the suspended prison sentence of three years were not proportionate and had a deterring effect on protesters. The court held, unanimously, that there was a violation of Article 5 § 3 (right to liberty and security—entitlement to trial within a reasonable time or to release pending trial) and a violation of Article 10 (freedom of expression) in light of Article 11 (freedom of assembly and association).

The government's submission for referral to the Grand Chamber was rejected in [October 2014](#).

Link to [full judgment](#)

Kudrevičius and Others v. Lithuania

26 November 2013, Application no. 37553/05, referred to the Grand Chamber on 14 April 2014

Violation of Article 11 but unnecessary to examine case under Article 7.

Facts. The applicants are farmers who protested against the fall in prices of agricultural products—notably milk—by organizing or carrying out the blocking of major Lithuanian roads with farming equipment. After a successful settlement with the government, the protest ended on 23 May 2003. However, criminal charges of rioting were brought against the five applicants, and they were all convicted in September 2004. They were given a custodial sentence of 60 days each, which was suspended for a year, during which time they could not leave their place of residence for more than 7 days without the authorities' prior consent. They appealed against the convictions, but were unsuccessful, and the Lithuanian Supreme Court dismissed their final appeal in October 2005. At that time, the Lithuanian courts also discharged them from their suspended sentences.

Relying in particular on Article 11 (freedom of assembly and association), the applicants complain that their criminal convictions for participating in peaceful protests were excessive. They also relied on Article 7 (no punishment without law) to complain that the laws under which they were prosecuted had not been clearly formulated or applied by the Lithuanian courts.

Reasoning. In its Chamber judgment of 26 November 2013 the court held, by four votes to three, that there had been a violation of Article 11. It held in particular that bringing criminal charges against the farmers and their ensuing convictions had not been a proportionate response to a protest that, though disruptive, was non-violent. Given that finding, the court considered that it had already addressed the main legal issue and that it was therefore not necessary to examine the applicants' complaint under Article 7 separately.

Link to [full judgment](#)

Pentikäinen v. Finland

Judgment of 4 February 2014, Application no. 11882/10, Case referred to the Grand Chamber on 3 June 2014

Photographer's conviction for disobeying the police while covering a demonstration but no Violation of Article 10. Case referred to Grand Chamber.

Facts. The case concerned the arrest of a photojournalist during a demonstration and his subsequent conviction for disobeying the police. The court underlined in particular that Markus Pentikäinen had not been arrested for acting as a photographer but for refusing to obey police orders to leave the scene of the demonstration. His equipment had not been confiscated and he had not been sanctioned.

Reasoning. In its Chamber judgment of 4 February 2014 the court held, by five votes to two, that there had been no violation of Article 10 of the convention. It found that the Finnish courts had struck a fair balance between the competing interests at stake and that the interference with the applicant's freedom of expression had been "necessary in a democratic society." The court underlined in particular that Pentikäinen had not been arrested for acting as a photographer but for refusing to obey police orders to leave the scene of the demonstration. His equipment had not been confiscated and he had not been sanctioned.

On 2 June 2014 the applicant's request for referral was accepted by the Grand Chamber.

Link to [full judgment](#)

2013

Kasparov and Others v. Russia

3 November 2013, Application no. 21613/07, Referral to Grand Chamber rejected in February 2014

Arrest of Garri Kasparov and other demonstrators during 2007 opposition meeting in Moscow—unjustified and in violation of Article 11.

Facts. The case concerned the arrest of a group of people ahead of an anti-government demonstration in April 2007—which had been authorized in a limited area—and their ensuing conviction for having breached the regulations on demonstrations.

Reasoning. The court found that the applicants’ defense rights had been limited in a manner incompatible with the guarantees of a fair trial, as their request to examine eyewitnesses had been refused. Their arrests had been disproportionate to the aim of maintaining public order. The applicants had been arrested and charged for the sole reason that the authorities had perceived their demonstration to be unauthorized. The court concluded that the forceful intervention had been disproportionate and had not been necessary for the prevention of disorder, in violation of Article 11. The court held there had been a violation of Article 6 § 1 (right to a fair trial) of the convention, and a violation of Article 11 (freedom of assembly and association).

Government’s request for referral to Grand Chamber was rejected on 17 February 2014.

Link to [full judgment](#)

Abdullah Yasa and Others v. Turkey

16 July 2013, Application no. 44827/08

Violation of Article 3 and failure to comply with requirements under Article 46.

Facts. The first applicant, Abdullah Yasa, was struck in the face by a tear gas canister which he claimed had been fired directly into the crowd by a law enforcement officer during a demonstration. The public prosecutor decided to take no further action, and refused to examine whether the force used had been proportionate, on the grounds that law enforcement agencies had acted in the interests of maintaining public order and to defend themselves against a hostile crowd.

Reasoning. The injuries suffered by Yasa were unquestionably serious and were considered by the court under Article 3 of the convention, the prohibition of inhuman or degrading treatment. Video evidence showed the demonstrations had not been peaceful, and as such the use of tear gas to disperse the gathering could be justified. However, this did not justify firing tear gas canisters directly at the protesters. The firing of tear gas canisters using a launcher entailed a risk of causing serious injury, as in the present case, or even of killing someone if the launcher was used improperly. Consequently, given the dangerous nature of the equipment used, the court considered that its case-law on the use of potentially lethal force should apply *mutatis mutandis* in the present case. As well as being authorized under national law, policing operations—including the firing of tear gas canisters—had to be sufficiently regulated by it, within the framework of a system of adequate and effective safeguards against arbitrariness, abuse of force, and avoidable accidents.

Under Article 46 (binding force and execution of judgments), the court held that the safeguards surrounding the proper use of tear-gas grenades needed to be strengthened in order to minimize the risk of death and injury resulting from their use. The court held there had been a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights.

Link to [full judgment](#)

Vona v. Hungary

9 July 2013, Application no. 35943/10, the Grand Chamber rejected the applicant's request for referral on [10 December 2012](#).

No violation of Article 11: Hungarian authorities' dissolution of an association involved in anti-Roma rallies and paramilitary parading was not disproportionate.

Facts. The case concerned the dissolution of an association that was organizing anti-Roma rallies and demonstrations. Gábor Vona was chair of the Hungarian Guard Association, the stated aim of which is to preserve Hungarian traditions and culture. In 2007, the association founded the Hungarian Guard, whose objectives were defined as “defending Hungary, defenseless physically, spiritually and intellectually.”

Shortly after its foundation, the association started to carry out activities not in accordance with its charter. The authorities asked the association to put an end to its unlawful activities, and in November 2007 Vona notified the authorities that the unlawful activities had ceased and that the association's charter would be modified accordingly. However, members of the association subsequently held rallies and demonstrations throughout Hungary, including in villages with large Roma populations, calling for the defense of ethnic Hungarians against so-called “Gypsy criminality.” Following an incident in December 2007 when the police refused to allow a march to pass through a street inhabited by Roma families, the authorities sought a court order for the dissolution of the association. This was granted in December 2008 and in July 2009, following two further demonstrations organized by the association, the scope of that order was extended in a judgment that was upheld by the Supreme Court.

Vona complained that the dissolution of the association chaired by him amounted to a violation of his right to freedom of association.

Reasoning. The court recalled that, as with political parties, the state was entitled to take preventive measures to protect democracy against associations if a sufficiently imminent prejudice to the rights of others undermined the fundamental values upon which a democratic society rests and functions. In this case, a movement created by Vona's association had led to demonstrations conveying a message of racial division, which, reminiscent of the Hungarian Nazi Movement (Arrow Cross), had an intimidating effect on the Roma minority. Indeed, such paramilitary marches had gone beyond the mere expression of a disturbing or offensive idea, which is protected under the convention, given the physical presence of a threatening group of organized activists. Therefore, the only way to effectively eliminate the threat was to remove the organizational backup provided by the association. The court held, unanimously, that there had been no violation of Article 11 (freedom of assembly and association) of the convention.

Applicant's request for referral to the Grand Chamber was rejected in December 2012.

Link to [full judgment](#)

Gün and Others v. Turkey

18 June 2013, Application no. 8029/07

Violation of Article 11—criminal convictions not meeting a “pressing social need.”

Facts. The case concerned the prison sentence and fine imposed on each of the applicants for taking part in an illegal demonstration to mark the anniversary of the arrest of the head of the PKK terrorist organization. Although the authorities had suspended all demonstrations between 14 and 20 February 2005, a group of people gathered outside the offices of the party in power at the time and one of them read in public a statement paying tribute to the former PKK leader. According to a report by the security forces, clashes then took place between the demonstrators and police officers, two of whom were slightly injured when stones were thrown at them. After being taken into custody and interviewed by the police, the applicants were sentenced in 2005 to one year and six months' imprisonment and to payment of a fine. In a 2006 judgment, the Court of Cassation reduced the amount of the fine but upheld the length of the prison term.

Relying, among other provisions, on Article 11 (freedom of assembly and association), the applicants alleged in particular a breach of their right to freedom of expression and freedom to protest. They also complained that their sentence was disproportionate.

Reasoning. The freedom to take part in a peaceful assembly was of such importance that it could not be restricted in any way, even for the leaders or members of a lawful political party, so long as the persons concerned did not themselves commit any reprehensible act on such an occasion. Accordingly, a fair balance had not been struck between, on the one hand, the general interest requiring the protection of public safety and, on the other, the applicants' freedom to demonstrate. The criminal conviction imposed on the applicants could not be reasonably regarded as meeting a “pressing social need.” The court held, unanimously, that there had been a violation of Article 11 of the convention.

Link to [case summary](#).

Vyerentsov v. Ukraine

11 April 2013, Application no. 20372/11

Violation of Article 3, Article 6 §§ 1 and Article 11—20-year legislative lacuna concerning freedom of peaceful assembly in Ukraine.

Facts. On behalf of a human rights NGO, Oleksiy Vyerentsov notified the mayor of Lviv that he would hold a series of demonstrations over several months to raise awareness about corruption in the prosecution service. On 12 October 2010, he organized a peaceful demonstration during which he was interviewed by police officers who eventually let him go. The following day, following a complaint by the local council, the administrative court prohibited further demonstrations—which had already been announced—as of 19 October 2010. The applicant was taken to the district police station, where he was accused of having breached the procedure for organizing and holding a demonstration. The next day he was brought before the district court, which found him guilty of the offenses charged and sentenced him to three days of administrative detention. Once he had served his sentence, the applicant unsuccessfully appealed to the regional court of appeal.

The applicant lodged a complaint with the European Court of Human Rights, alleging a violation of his rights under Article 6 §§ 1 and 3 (the right to a fair trial), Article 7 (no punishment without law) and Article 11 (freedom of assembly). He argued that he had been sentenced to three days of administrative detention for holding a demonstration without permission, even though such permission was not required by domestic law.

Reasoning. The court considered that the case disclosed a structural problem, namely a legislative lacuna concerning freedom of assembly which has remained in Ukraine since the end of the Soviet Union. Indeed, the only existing document currently establishing a procedure for holding demonstrations is a decree adopted in 1988 by the USSR (the 1988 Decree), which is not generally accepted by the Ukrainian courts as still applicable. Therefore, under Article 46 (binding force and implementation), the court invited Ukraine to urgently reform its legislation and administrative practice to establish the requirements for the organization and holding of peaceful demonstrations as well as the grounds for their restriction. The court held, unanimously, that there had been a violation of Article 11 (freedom of assembly), Article 7 (no punishment without law), and Article 6 §§ 1 and 3 (right to a fair trial) of the convention.

Link to [full judgment](#)

Aydan v. Turkey

12 March 2013, Application no. 16281/10

Three violations of Article 2 and a violation of Article 6 § 1.

Facts. The applicants are the widow and mother of A. Aydan, who was fatally wounded on 6 September 2005 by shots fired from a military jeep while he was waiting for a bus close to a demonstration. In July 2006 the Assize Court decided not to impose a criminal penalty on the

person who had fired the shots, finding that although the shooter had exceeded the limits of self-defense, he was in an excusable state of emotion, fear, or panic. The Court of Cassation, followed by the plenary Court of Cassation, upheld that decision.

An application was lodged with the European Court of Human Rights arguing a violation of Article 2 of the convention, on the right to life.

Reasoning. The court held that it was not established that the force used to disperse the demonstrators, which had caused A. Aydan's death, had been necessary; that the state had failed in its obligation to secure the right to life; and lastly, that the courts should have carried out more detailed inquiries or reassessed the evidence in order to take account of the contradictions between witnesses' statements. The court held, unanimously, that there had been three violations of Article 2 (right to life) of the convention, and a violation of Article 6 § 1 (right to a fair hearing within a reasonable time) on account of the length of the proceedings.

Link to [case summary](#)

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