



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

THIRD SECTION

DECISION

Application no. 36469/08
Levon TER-PETROSYAN
against Armenia

The European Court of Human Rights (Third Section), sitting on 15 May 2012 as a Chamber composed of:

Josep Casadevall, *President*,

Corneliu Bîrsan,

Alvina Gyulumyan,

Ineta Ziemele,

Luis López Guerra,

Nona Tsotsoria,

Kristina Pardalos, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having regard to the above application lodged on 30 August 2008,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Levon Ter-Petrosyan, is an Armenian national who was born in 1945 and lives in Yerevan. He is represented before the Court by Mr V. Grigoryan, a lawyer practising in Yerevan.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

1. Background to the case

3. The applicant was the President of Armenia between 1991 and 1998.

4. On 21 September 2007 the applicant made a comeback to politics by delivering a public speech critical of the authorities. He alleges that thereafter he was subjected to a smear campaign by the public television channel, while many of his supporters were subjected to various other measures, including unlawful arrests, tax inspections and other forms of harassment by the authorities.

5. On 26 October 2007 the applicant announced that he would run for the presidential election scheduled to take place on 19 February 2008.

6. On 21 January 2008 the pre-election campaign started. The applicant's main opponent representing the ruling party was Serzh Sargsyan, the then Prime Minister and Chair of the National Security Council. The applicant alleges that the latter abused his public position in order to carry out a more favourable campaign.

7. It appears that at the beginning of February 2008 a number of authorities and organisations, such as the Ombudsman, the press freedom NGO Yerevan Press Club and the OSCE voiced concern over bias against the applicant on the public and other television channels.

2. The 19 February 2008 presidential election and the post-election demonstrations

8. On 19 February 2008 the election was held. The applicant alleges that it was accompanied by numerous acts of violence and election fraud.

9. On 20 February 2008 the International Election Observation Mission (IEOM) composed jointly of OSCE/ODIHR, the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the European Parliament issued its preliminary report, concluding that the election had been administered mostly in line with OSCE and Council of Europe commitments and standards, but noting several problems. These included, *inter alia*, extensive negative coverage by television channels of the applicant's pre-election campaign compared to other candidates, as well as dozens of serious cases of election fraud. The conduct of the count was assessed as "bad" or "very bad" in 16% of polling stations visited.

10. On the same date the outgoing President Robert Kocharyan congratulated the Prime Minister on his victory without waiting for the final results. It appears that tens of thousands of the applicant's supporters went onto the streets of Yerevan to protest against the election results, which they believed had been rigged.

11. On 21 February 2008 the applicant's supporters and many others held a rally on Freedom Square. The applicant alleges that the authorities responded by creating obstacles to free movement by blocking streets and suspending public transport. The rallies, however, continued on a daily basis

and attracted thousands of the applicant's supporters. It appears that a few hundred of the demonstrators stayed on Freedom Square around the clock, having set up tents. It further appears that these demonstrations were held without notifying the authorities as required by law, but the authorities did not make any attempt to interfere with their conduct.

12. On 23 February 2008 the outgoing President held individual meetings with the chief of police, chief of the army and chief of national security, announcing that he would not allow anybody to destabilise the situation in the country and giving instructions to that effect.

13. The applicant alleges that, following these meetings, persecution started against many of his supporters. Various political and public figures who had expressed their support for his candidacy, members of his election campaign and other supporters were arrested and charged on various grounds. Furthermore, many of his supporters in the regions were subjected to ill-treatment and psychological pressure in police stations, were dismissed from work or deprived of social benefits. His telephone conversations and those of his supporters were tapped and various party premises searched.

14. The applicant further alleges that many participants of the rallies were taken to police without any legal grounds, where they were harassed and urged not to participate in the demonstrations attended by the applicant. An attempt was also made by the police to disarm his bodyguards.

15. On 24 February 2008 the Central Election Commission announced that the Prime Minister had won the election with around 52% of all votes cast, while the applicant had received around 21% of votes.

16. On 29 February 2008 the IEOM made its final announcement and all the international observers left the country. The applicant alleges that the authorities deliberately waited for this before starting their unlawful dispersal of demonstrators.

17. On the same date the applicant applied to the Constitutional Court, contesting the election results and seeking to annul them.

18. According to the applicant, he participated in all the demonstrations which took place between 20 February and 1 March 2008 in his capacity of an opposition leader and presidential candidate. He gave speeches about two to three times a day on issues of political and public interest and stayed at Freedom Square around the clock, leaving only for two to three hours a day. He regularly called on his supporters to continue the mass protests.

3. The events of 1 March 2008

19. On 1 March 2008, allegedly around 6 a.m., police forces arrived near Freedom Square.

20. According to the applicant, at that time he was asleep in his car, parked at the square. Most demonstrators based on the square were also asleep but news spread that the police forces were in the vicinity and the

demonstrators started waking up. He was woken by his bodyguard and walked to one of the statues situated in the centre of the square. By then the police forces had already surrounded the several hundred demonstrators based on the square. They started making a loud noise by hitting their truncheons against their shields, which spread panic among the demonstrators. The applicant asked for the audio equipment to be switched on, then he addressed the demonstrators from a platform through a microphone: “We see that police forces have arrived on the square. Please, do not have any contact with them and do not touch them. Please, keep your distance from them. Let us wait and see what they want from us. If they have something to tell us, we are ready to listen. Please, be patient and peaceful”. The demonstrators followed his request and kept their distance from the police forces, who had by then surrounded them with three chains. Suddenly, without any prior warning or orders to disperse, the police forces with loud shouts attacked the demonstrators and started beating them with rubber truncheons and destroying the tents. In a matter of minutes the demonstrators were beaten and pushed out of Freedom Square. They tried to save themselves by running away from the police forces who chased, beat and kicked them brutally regardless of their age and sex.

21. In the meantime, the applicant, who was on the platform, was approached by the Head of the State Protection Department (SPD) of the National Security Service, General G.S., who was also the chief of the Armenian President’s bodyguard team, and other SPD officers. They surrounded the applicant and his bodyguards and then forcibly took them to one of the central statues on the square, where the applicant was ordered to sit on a bench surrounded only by SPD officers. After the square was cleared of all demonstrators, General G.S. approached the applicant and ordered him to leave the square. The applicant refused to do so, saying that he would not leave the square voluntarily and that they could make him do so only by arresting him. After further attempts to make the applicant leave the square failed, General G.S. forced the applicant into a car and took him to his home in Yerevan.

22. It appears that later that day the violence escalated and more clashes took place between the law enforcement authorities and the demonstrators, some of whom had relocated to the area surrounding the French Embassy and the Yerevan Mayor’s Office and were joined by thousands of others. The clashes continued until late at night, resulting in ten deaths, numerous injured and scores of arrests.

23. On the same date the outgoing President adopted a decree, declaring a state of emergency in Yerevan for 20 days, which, *inter alia*, prohibited the holding of any further rallies or other mass public events and ordered that mass media provide information on State and internal affairs exclusively within the scope of official information provided by State

bodies. The applicant alleges that this decree was not accessible to the public.

4. The applicant's alleged house arrest and other developments

24. The applicant alleges that, after he was forcibly taken home from Freedom Square on 1 March 2008, he was not allowed to leave the territory of his house and garden. The roads to his home were blocked by the special forces, the road traffic police, SPD officers and the police. Block posts were set up and all vehicles heading to and from the applicant's house were checked and searched. No one could reach the applicant or go in and out of his home without the permission of the special forces. The special forces, after carrying out a search of visitors and their vehicles, reported their identity and the purpose of their visit to an unknown person and allowed visitors to go in and out only after receiving instructions from the person to whom they reported the information.

25. On 1 March 2008 the Secretary General of the Council of Europe (SGCE) issued the following press release:

“I am very concerned about reports of injuries during the security forces' operation to disperse protesters in Yerevan this morning. If these reports are confirmed, all allegations of excessive force should be properly investigated. It is also vital to prevent any further violence.

I am also alarmed by the reports that the runner-up in the recent presidential elections, former President [Levon Ter-Petrosyan], has been put under house arrest. If this is true, he should be immediately released. If he is accused of committing a crime, he should be properly charged and prosecuted in a court of law like anyone else. In a democracy you cannot arbitrarily detain political opponents.”

26. The applicant alleges that on the same date an announcement by the SPD was broadcast on the public television channel's evening news programme. According to that announcement, which made reference to Section 6 § 3 and Section 12 (2) of the Law on Ensuring the Security of Persons Subject to Special State Protection (see paragraphs 37 and 38 below), SPD officers had decided to remove the applicant from Freedom Square in order to ensure his safety from any danger posed by the situation following the 1 March 2008 early morning police intervention, since he – as a former President of Armenia – was a person subject to State protection. The applicant had been removed from the square and taken to his house whose protection was ensured by the same SPD. Bearing in mind the necessity of ensuring the applicant's security, as well as taking into account the fact that the applicant's leaving his home might lead to unpredictable developments and pose danger to his security, the SPD – in the situation which had arisen – had warned the applicant that he must categorically refrain from making attempts to leave his house, indicating that otherwise

the SPD could not bear responsibility for his safety, since they could not accompany him to an unlawful event.

27. On an unspecified date before 4 March 2008 the applicant's representative filed a motion at a hearing before the Constitutional Court, stating that the applicant was under *de facto* house arrest and was not able to attend and requesting that the Constitutional Court take measures to ensure the applicant's presence. The President of the Constitutional Court replied that the applicant had three legal representatives at the hearing. However, if the applicant also wished to attend but was unable to for whatever reasons, the motion would be examined and an appropriate decision taken.

28. The applicant alleges that at the hearing of 4 March 2008 the Constitutional Court decided to ask the representative of the General Prosecutor's Office to clarify the circumstances of his alleged house arrest, to which the representative replied that there were no limitations imposed on the applicant's freedom of movement. The applicant further alleges that by the same decision the Constitutional Court instructed the General Prosecutor's Office to take measures to secure the applicant's presence before the Constitutional Court. As a result of this decision, he was allowed to attend the hearing on that same day for one hour. Otherwise, his house arrest lasted without further interruptions until around 25 March 2008.

29. On 4 and 5 March 2008 the SGCE, the EU and the OSCE called upon the authorities to lift the state of emergency and to release those arrested.

30. On 8 March 2008 the Constitutional Court dismissed the applicant's application of 29 February 2008.

31. On 17 March 2008 the National Assembly introduced amendments in the Assemblies, Rallies, Marches and Demonstrations Act.

B. Relevant domestic law and international documents

1. The Assemblies, Rallies, Marches and Demonstrations Act (in force from 22 May 2004)

32. According to Section 2, public events include peaceful assemblies, rallies, marches (parades) or demonstrations (including sit-ins). Mass public events are those public events which have a hundred or more participants. Non-mass public events are those public events which have less than a hundred participants.

33. According to Section 7 §§ 1 and 4, everyone has the right to participate in public events. Participants in a public event are not allowed to carry, use or apply weapons, ammunition, explosives, poisonous, inflammable or any other objects or substances which may harm the life, health or property of others.

34. According to Section 10 §§ 1, 2 and 4, except cases when a non-mass public event spontaneously turns into a mass public event, mass public events may be held only after notifying the competent authority in writing. Everyone has the right to hold non-mass public events without notifying the competent authority and without violating public order. The organisers shall send written notification of the intention to hold a mass public event to the head of the local authority where the event is to be organised or to the Mayor of Yerevan, if the public event is to be held in Yerevan, not later than five working days and not earlier than twenty days before the planned date of the event.

35. According to Section 12 § 6, as a result of examination of the notification, if there are no circumstances prescribed by this Act allowing to ban the planned event, the notification about the mass public event shall be taken into consideration and the event shall be held in the place and at the time indicated in the notification. If there are such circumstances, a decision shall be taken banning the mass public event.

36. According to Section 14, the police are entitled to decide to terminate a public event and to order the organisers to terminate the event, by allowing them reasonable time to do so, only if, *inter alia*, the mass public event is being held without notification, except for the cases in which a non-mass public event spontaneously turns into a mass public event. The organiser, having received the above order, is obliged to announce immediately the termination of the event and to take measures aimed at ending the event within a time-limit prescribed by the police. The police are entitled to terminate forcibly a public event only if (a) the order to terminate an event is not immediately announced to the participants by the organiser; or (b) the order to terminate the public event has not been complied with within the prescribed time-limit and its continuation poses a real threat to the life and health of others, State and public security, public order or public or private property. A representative of the police, before the forcible termination of an event, is obliged to inform the participants at least twice through a loudspeaker about the order to terminate the public event and to prescribe a reasonable time-limit for termination. If the public event is not terminated within such time-limit, the police are entitled to terminate the event forcibly, using lawful means. This procedure shall not be applied if an outbreak of mass disturbances takes place in the location where the public event is held requiring implementation of urgent measures.

2. Law on Ensuring the Security of Persons Subject to Special State Protection (in force from 1 July 2004)

37. According to Section 6 § 3, a former President of Armenia shall be provided with personal lifetime State protection, except in cases prescribed by law.

38. According to Section 12 (2), the competent authority is obliged to organise and implement protective, security, technical and other measures aimed at ensuring the security of persons subject to State protection.

3. *Resolution 1609 (2008) of the Parliamentary Assembly of the Council of Europe (PACE): Functioning of democratic institutions in Armenia, 17 April 2008*

39. The relevant extract from the Resolution provides:

“1. On 19 February 2008, a presidential election took place in Armenia. Although the ad hoc committee which observed this election considered that it was “administered mostly in line with Council of Europe standards”, it found a number of violations and shortcomings, the most important of which were: unequal campaign conditions for the candidates, the lack of transparency of the election administration and a complaints and appeals process that did not give complainants access to an effective legal remedy. In addition, a number of cases of electoral fraud were witnessed.

2. The Parliamentary Assembly regrets that the violations and shortcomings observed did nothing to restore the currently lacking public confidence in the electoral process and raised questions among a part of the Armenian public with regard to the credibility of the outcome of the election. This lack of public confidence was the basis for the peaceful protests – held without prior official notification – that ensued after the announcement of the preliminary results, and which were tolerated by the authorities for ten days.

3. The Assembly deplores the clashes between the police and the protesters and the escalation of violence on 1 March 2008 which resulted in 10 deaths and about 200 people being injured. The exact circumstances that led to the tragic events of 1 March, as well as the manner in which they were handled by the authorities, including the imposition of a state of emergency in Yerevan from 1 to 20 March 2008 and the alleged excessive use of force by the police, are issues of considerable controversy and should be the subject of a credible independent investigation.

4. The Assembly condemns the arrest and continuing detention of scores of persons, including more than 100 opposition supporters and three members of parliament, some of them on seemingly artificial and politically motivated charges. This constitutes a de facto crackdown on the opposition by the authorities. ...

6. While the outbreak of public resentment culminating in the tragic events of 1 March 2008 may have been unexpected, the Assembly believes that the underlying causes of the crisis are deeply rooted in the failure of the key institutions of the state to perform their functions in full compliance with democratic standards and the principles of the rule of law and the protection of human rights. More specifically:

6.1 the National Assembly of Armenia has so far failed to play its role as a forum for political debate and compromise between the different political forces. Based on a “winner takes all” attitude, the current political system excludes the opposition from any effective participation in the decision-making process and governance of the country. This has resulted in, *inter alia*, a part of the political spectrum in Armenia is not represented in the current National Assembly;

6.2 the lack of public trust in the electoral process also generally undermines the credibility of the outcome of the elections in the eyes of part of the Armenian population. This is further compounded by the lack of impartiality of the election administration, the ineffective handling of election complaints and appeals and the lack of transparency of the vote count and tabulation procedures;

6.3. despite successful legislative reforms, the courts still lack the necessary independence to inspire the public's trust as impartial arbiters including in the context of the electoral process; this explains the low number of election-related complaints filed with them. The same lack of judicial independence is also reflected in the fact that the courts do not appear to question the necessity of keeping people in detention pending trial and generally respond favourably to requests by the prosecutors without properly weighing up the grounds for this, as required by Article 5, paragraph 3, of the European Convention on Human Rights...;

6.4. in the absence of adequate judicial control, the arrest and continuing detention of persons on seemingly artificial charges, after contesting the fairness of the presidential election or their participation in the protest afterwards can only point to the political motivation of such acts. This is unacceptable in a Council of Europe member state and cannot be tolerated by the Assembly;

6.5 even though there is a pluralistic and independent print media, the current level of control by the authorities of the electronic media and their regulatory bodies, as well as the absence of a truly independent and pluralistic broadcaster, impede the creation of a pluralistic media environment and further exacerbate the lack of public trust in the political system. ...

12. ...the Assembly considers that, for [an open and constructive dialogue between the political forces in Armenian society] to start and be successful, a number of conditions need to be met as a matter of priority, in order to build confidence vis-à-vis the opposition and provide proof that the ruling majority is seriously committed to pursuing further reforms:

12.1. an independent, transparent and credible inquiry into the events of 1 March and the circumstances that led to them, including the alleged excessive use of force by the police and violence by the protesters, should be carried out immediately. The international community should be ready to monitor and assist such an inquiry;

12.2. the persons detained on seemingly artificial and politically motivated charges or who did not personally commit any violent acts or serious offences in connection with them should be released as a matter of urgency..."

4. Human Rights Watch Report: Democracy on Rocky Ground: Armenia's Disputed 2008 Presidential Election, Post-Election Violence, and the One-Sided Pursuit of Accountability, February 2009

40. The relevant extracts from the Report provide:

"The [statements] Human Rights Watch took from demonstrators and bystanders suggest that the first police action, in the early morning of March 1 against the Freedom Square tent encampment, entailed excessive use of force, without warning

and in the absence, at the start, of resistance. Although later [protesters] began throwing stones at police from side streets near Freedom Square, one participant described being beaten up by police who found him lying on the ground. ...

Early morning removal of [protesters] and protest camp at Freedom Square

On the night of February 29 to March 1, several hundred [protesters] were on Freedom Square, staying in some 25 to 30 tents. Police moved against the [protesters'] camp early on the morning of March 1.

According to first deputy police chief [A.M.], speaking to Human Rights Watch four weeks later, the police had arrived at the square on March 1 to conduct a search, acting on information that demonstrators had been arming themselves with metal rods, and possibly firearms, in preparation for committing acts of violent protest on March 1. [A.M.] said that initially a group of 25-30 police [officers], including experts and investigators, were sent to do the search of the protestors' camp. When the group tried to conduct the search, the [protesters] turned aggressive and resisted police with wooden sticks and iron bars, resulting in injuries to several policemen. At that stage more police had to be deployed and had to use force to disperse the crowd and support the group conducting the search. According to [A.M.], this operation lasted for about 30 minutes and 10 policemen sustained injuries as a result. Despite Human Rights Watch's request, [A.M.] did not provide any details about these injured police and the nature of the injuries sustained.

Several witnesses interviewed separately by Human Rights Watch consistently described a different sequence of events in front of the Opera House on the morning of March 1. According to them, some time shortly after 6 a.m., while it was still dark and as demonstrators started waking, news spread that police were arriving at Freedom Square. Hundreds of Special Forces police in riot [armour], with helmets, plastic shields, and rubber truncheons, started approaching the square, in four or five rows, from Tumanyan Street and Mashtots Avenue. Police surrounded the square and stood there for a few minutes.

[Levon Ter-Petrosyan], who had been sleeping in his car parked at the square, was woken up. According to the account he gave Human Rights Watch, he addressed the [protesters], some of whom by this time were out of their tents, asking them to step back from the police line, and then to stay where they were and wait for instructions from the police. He also warned the police that there were women and children among the demonstrators.

Even before [Ter-Petrosyan] finished his address, police advanced towards the demonstrators in several lines, beating their truncheons against their plastic shields. According to multiple witnesses, the police made no audible demand for anyone to disperse nor gave any indication of the purpose of their presence. They started pushing demonstrators from the square with their shields, causing some to panic and scream and others to run. Some demonstrators appeared ready to fight the police, which was why, according to [Ter-Petrosyan], he urged the crowd not to resist the police. Others were still in their tents.

Immediately afterwards, without any warning, riot police attacked the demonstrators, using rubber truncheons, iron sticks, and electric shock batons. According to [Ter-Petrosyan], a group of about 30 policemen under the command of [General G.S.] approached him and forcibly took him aside. When asked if he was

arrested, [Ter-Petrosyan] was told that police were there to guarantee his safety and that he was requested to cooperate. [Levon Ter-Petrosyan] was subsequently taken home and effectively put under house arrest.”

5. *Report by the Council of Europe Commissioner for Human Rights on His Special Visit to Armenia, 12-15 March 2008, CommDH(2008)11REV*

41. The relevant extracts from the Report provide:

“Former President [Levon Ter-Petrosyan] is currently held in what must be qualified as *de facto* house arrest. He is provided close protection by the authorities in charge of the State of Emergency, notably the National Security Services. According to the Head of Police, he is free to leave his house, however the close protection service will only accompany him to safe places.”

COMPLAINTS

42. The applicant complains under Articles 10 and 13 of the Convention that, because of his critical position towards the authorities, the authorities started a harassment campaign against him as a result of which his supporters were arrested and detained, and that he had no effective remedies against this.

43. The applicant complains under Articles 11 and 13 of the Convention that:

(a) he was deprived of the possibility to hold a peaceful assembly as a result of the police intervention of 1 March 2008 and that he had no effective remedy against this; and

(b) the amendments introduced on 17 March 2008 by the National Assembly in the Assemblies, Rallies, Marches and Demonstrations Act violated his freedom of peaceful assembly.

44. The applicant complains under Articles 10, 11 and 15 of the Convention that the state of emergency declared on 1 March 2008 violated his freedom of expression and assembly because he was not able to carry out his political campaign and hold further rallies. The state of emergency had no legal basis. Nor was there any risk of war or other public emergency threatening the life of the nation.

45. The applicant complains under Article 3 of Protocol No. 1 and Article 13 of the Convention that the presidential election was not free and fair and that he had no effective remedies against this.

46. The applicant complains under Article 2 of Protocol No. 4 that from 1 March 2008 until about 25 March 2008 he was kept under house arrest.

47. The applicant complains under Article 1 of Protocol No. 12 that he was discriminated against on political grounds in the exercise of his rights

guaranteed by Articles 10 and 11 of the Convention, Article 3 of Protocol No. 1 and Article 2 of Protocol No. 4.

48. In his completed application form lodged on 19 March 2009 the applicant also complains under Article 8 of the Convention that his telephone conversations and other communications with his supporters were monitored. These materials were then included in the criminal case file in order to make them public and to be abused for political purposes.

THE LAW

A. The applicant's alleged house arrest

49. The applicant complains that from 1 March until about 25 March 2008 he was kept under *de facto* house arrest. He invokes Article 2 of Protocol No. 4. The Court considers that this complaint falls to be examined also under Article 5 § 1 of the Convention. The provisions in question, insofar as relevant, provide:

Article 5 § 1 of the Convention

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to”

Article 2 of Protocol No. 4

“1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

...

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.”

50. The Court considers that it cannot, on the basis of the file, determine the admissibility of this part of the application and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of the Court, to give notice of this complaint to the respondent Government.

B. Freedom of peaceful assembly and effective remedy

51. The applicant complains about the dispersal of the demonstrations on 1 March 2008. He further complains that he had no effective remedy against this. He invokes Articles 11 and 13 of the Convention, which, insofar as relevant, provide:

Article 11 of the Convention

“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. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.”

Article 13 of the Convention

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

52. The Court considers that it cannot, on the basis of the file, determine the admissibility of this part of the application and that it is therefore

necessary, in accordance with Rule 54 § 2 (b) of the Rules of the Court, to give notice of these complaints to the respondent Government.

C. Alleged discrimination on the ground of political opinion

53. The applicant complains that the above-mentioned alleged violations of the Convention and Protocol No. 4 were motivated by his political opinion. He invokes Article 1 of Protocol No. 12. The Court considers that this complaint falls to be examined under Article 14 of the Convention, which provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

54. The Court considers that it cannot, on the basis of the file, determine the admissibility of this part of the application and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of the Court, to give notice of this complaint to the respondent Government.

D. Other alleged violations of the Convention

55. The applicant also raised a number of other complaints under Articles 8, 10, 11, 13 and 15 of the Convention and Article 3 of Protocol No. 1. (see paragraphs 42-45 and 47-48 above).

56. Having regard to all the material in its possession, and in so far as these complaints fall within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant’s complaints concerning his alleged house arrest, the dispersal of a rally on 1 March 2008 and lack of effective remedy in that respect, and the alleged discrimination on the ground of political opinion;

Declares the remainder of the application inadmissible.

Marialena Tsirli
Deputy Registrar

Josep Casadevall
President