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

FOURTH SECTION

DECISION

Application no. 32568/11
ARMENIAN NATIONAL MOVEMENT
against Armenia

The European Court of Human Rights (Fourth Section), sitting on 13 April 2021 as a Committee composed of:

Jolien Schukking, *President,*
Armen Harutyunyan,
Ana Maria Guerra Martins, *judges,*
and Ilse Freiwirth, *Deputy Section Registrar,*

Having regard to the above application lodged on 18 May 2011,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant organisation,

Having deliberated, decides as follows:

THE FACTS

1. The applicant organisation, the Armenian National Movement, is a political party which was established in 1988 and has its registered office in Yerevan. The applicant organisation was represented by Mr V. Grigoryan and Mr T. Yegoryan, lawyers practising in Yerevan, and Mr E. Sahakyan, a non-practising lawyer based in Strasbourg.

2. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, and subsequently by Mr Y. Kirakosyan, Representative of the Republic of Armenia to the European Court of Human Rights.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. On 30 August 2010 the applicant organisation submitted a notification to the Yerevan Mayor's Office, as required by law, of its intention to hold a rally at Yerevan's Freedom Square on 17 September 2010 from 6 to 10 p.m., followed by a march.

5. On 1 September 2010 the Yerevan Mayor's Office banned the applicant organisation from holding the rally in question on the following grounds. Firstly, the local authority was under a contractual obligation in respect of carousels and other children's attractions that had been installed on the square. Secondly, preparatory work and rehearsals were planned to be held on the square, including on 17 September 2010, by various ensembles and cultural organisations in preparation for the celebration of Yerevan's anniversary on 10 October 2010. The applicant organisation was offered to hold its rally in a different location on the same date and time, followed by the march.

6. On 6 September 2010 the applicant organisation contested the ban before the Administrative Court, alleging violations of domestic law and Article 11 of the Convention.

7. On 7 September 2010 the Administrative Court dismissed the applicant organisation's appeal, finding that the ban was in compliance with domestic law and did not violate the applicant organisation's right to assembly. It was not possible to allow the applicant organisation to hold an event at a location where other events were already planned to take place, as this would violate the rights of others. Thus, it was proposed that the applicant organisation hold a rally on the same date and time but in a different location. The proposed location was also in the Central District, not far from Freedom Square and was the nearest public space suitable for a rally. Numerous rallies had already been held in that location, including by the applicant organisation. Furthermore, it was possible to start the intended march from that location and its route would not be affected in any way.

8. On 11 October 2010 the applicant organisation lodged an appeal on points of law against this decision with the Court of Cassation, arguing that its rally had been banned without another event justifying the ban.

9. On 20 October 2010 the Court of Cassation declared the appeal on points of law inadmissible for lack of merit. A copy of this decision was served on the applicant organisation on 19 November 2010.

COMPLAINT

10. The applicant organisation complained that the decision of the Yerevan Mayor's Office of 1 September 2010 had breached its rights guaranteed by Article 11 of the Convention.

THE LAW

11. The applicant organisation complained that the ban to hold a rally issued by the Yerevan Mayor's Office on 1 September 2010 had breached the guarantees of Article 11 of the Convention, which, in so far as relevant, provides:

> "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..."

12. The Government submitted that the applicant organisation had failed to lodge its application within six months from the date of the final decision as required by Article 35 § 1 of the Convention. In particular, the appeal on points of law lodged by the applicant organisation with the Court of Cassation on 11 October 2010, that is after the date of the planned event, had not been an effective remedy and had not been capable of providing any redress to the applicant organisation – which was well aware of this fact.

13. The applicant organisation did not comment on the Government's submissions regarding the admissibility of the application.

14. The Court reiterates that, as a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where it is clear from the outset however that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of, or from the date of knowledge of that act or its effect on or prejudice to the applicant (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 157, ECHR 2009).

15. In the present case, the Court notes that the applicant organisation intended to hold a rally in Yerevan on 17 September 2010 and submitted a notification to that effect to the Yerevan Mayor's Office on 30 August 2010. By its decision of 1 September 2010, the Yerevan Mayor's Office banned the applicant organisation from holding the planned rally. This decision was upheld upon the applicant organisation's appeal by the Administrative Court on 7 September 2010. The applicant organisation enjoyed a right under domestic law to lodge an appeal on points of law against that decision, but it did so only on 11 October 2010, that is to say, several weeks after the date of the planned event. A question therefore arises as to whether the appeal in question was capable of providing redress in respect of the applicant organisation's grievances and whether it should be taken into account for the purposes of calculation of the six months' time-limit.

16. The Court considers that the appeal in question had lost its purpose in so far as the applicant organisation's intention to hold a rally on 17 September 2010 was concerned and it was no longer capable of providing immediate redress that would have allowed the applicant organisation to go ahead with its event by reversing the ban imposed by the Yerevan Mayor's Office. As to whether the appeal in question could have provided redress *post factum*, the Court has previously found that no remedies exist under Armenian law in respect of a ban to hold an assembly capable of providing redress of a *post hoc* nature such as an

acknowledgement of a violation of the applicant organisation's right to freedom of peaceful assembly and, if necessary, payment of a compensation (see *Helsinki Committee of Armenia v. Armenia*, no. 59109/08, § 36, 31 March 2015). There is nothing in the materials of the present case that could prompt the Court to come to a different conclusion as regards the appeal on points of law lodged by the applicant organisation on 11 October 2010. It follows that the appeal in question was not an effective remedy in the particular circumstances of the case and the final decision within the meaning of Article 35 § 1 of the Convention was the decision of the Administrative Court of 7 September 2010. The applicant organisation, however, applied to the Court only on 18 May 2011, that is, more than six months from the date of that decision.

17. Accordingly, this application has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 20 May 2021.

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Ilse Freiwirth Deputy Registrar	Jolien Schukking President