

Article 3

Inhuman or degrading treatment

The hardship endured by the applicant exceeded the unavoidable level inherent in detention and the resulting suffering and feelings of humiliation and inferiority went beyond the threshold of severity under Article 3 of the Convention: *violation*

Article 6

Article 6-1 taken together with Article 6-3

Adequate time and facilities for the preparation one's defence

Applicant allowed only a few hours, without contact with the outside world, for the preparation of his defence: *violation*

Article 2 of Protocol No. 7

Right of appeal in criminal matters

No clear and accessible right to appeal against a sentence to administrative detention:
violation

Facts - The applicant was a member of an opposition political party. On 21 March 2003 the applicant participated in a rally in Yerevan which was part of a nationwide public demonstration. On 22 March 2003 two police officers visited the applicant at his home and proposed to accompany them to the police station. He showed resistance but was nevertheless taken to the police station. The arrest record drawn up by the arresting police officers stated that the applicant "disobeyed the lawful orders of the police officers and used foul language". About two hours after his arrest the applicant was brought before the domestic court. After a brief hearing, he was sentenced to ten days of administrative detention. The applicant was then taken to temporary detention facility and placed in a cell with seven other people. The cell measured 8.75 sq. m, was extremely overcrowded, infested with pests and insects, without sleeping facilities, as well as access to the toilet was limited. On 25 March 2003 the applicant and three other detainees were transferred to another cell with the conditions not different from the first one.

Law – Article 3 - It is incumbent on the State to ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured. Thus, having regard to the cumulative effects of the conditions of the applicant's detention, the Court considered that the hardship the applicant endured exceeded the unavoidable level inherent in detention and found that the resulting suffering and feelings of humiliation and inferiority went beyond the threshold of severity under Article 3 of the Convention.

Conclusion: violation (unanimously)

Article 6-1 taken together with Article 6-3(b) -The administrative case against the applicant was examined in an expedited procedure existing at the material time. The applicant was taken to and kept in a police station – without any contact with the outside world – where he was presented with a charge and in a matter of hours taken to a court and convicted. The Court doubted that the circumstances in which the applicant's trial was conducted enabled him to familiarise himself properly with and to assess adequately the charge and evidence against him, or to develop a viable legal strategy for his defence. The Court, therefore, concluded that the applicant did not have a fair hearing, in particular on account of not being afforded adequate time and facilities for the preparation of his defence.

Conclusion: violation (unanimously)

Article 2 of Protocol No. 7- The review procedure prescribed by domestic law did not provide a clear and accessible right to appeal and lacked any clearly-defined procedure or time-limits and any consistent application in practice.

Conclusion: violation (unanimously)