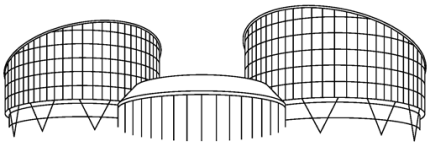

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF HAYK GRIGORYAN v. ARMENIA

(Application no. 9796/17)

JUDGMENT

Art 10 • Freedom to receive and impart information • Assault on journalist and seizure of his camera by police officers whilst filming a demonstration which had turned violent • Interference not shown to be lawful and to pursue a legitimate aim and thus not considered to be "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 April 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Hayk Grigoryan v. Armenia,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Mattias Guyomar, *President*,
Armen Harutyunyan,
Stéphanie Mourou-Vikström,
Gilberto Felici,
Andreas Zünd,
Diana Sârcu,
Kateřina Šimáčková, *judges*,
and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the application (no. 9796/17) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Armenian national, Mr Hayk Grigoryan ("the applicant"), on 19 January 2017;

the decision to give notice to the Armenian Government ("the Government") of the complaint under Article 10 of the Convention concerning the alleged violation of the applicant's right to freedom of expression and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 11 March 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the alleged obstruction of the applicant's journalistic work while he was filming an alleged assault on a civilian by police officers. The applicant relied on Article 10 of the Convention.

THE FACTS

2. The applicant was born in 1982 and lives in Yerevan. He was represented by Ms A. Maralyan, Ms A. Melkonyan, Ms H. Harutyunyan and Ms L. Sahakyan, lawyers practising in Strasbourg and Yerevan.

3. The Government were represented by their Agent, Mr Y. Kirakosyan, Representative of the Republic of Armenia on International Legal Matters.

4. The facts of the case may be summarised as follows.

I. INCIDENT OF 19 JULY 2016

5. On 17 July 2016 a group of armed men stormed the premises of the Patrol Service Regiment of the Armenian Police ("the PSR") in Yerevan, taking police officers hostage and making political demands, including the

resignation of the then President of Armenia. From 17 to 30 July the Armenian capital was rocked by protest rallies in connection with the seizure of the PSR building.

6. The police were placed on high alert. Several checkpoints were set up in the streets leading to the PSR, including in the Sari Tagh neighbourhood, not far from the stormed police building.

7. According to the applicant's submissions (uncontested by the Government), on 17 July 2016 the gas supply in the Sari Tagh neighbourhood was cut off. Transport was also unavailable.

8. On 19 July 2016 a demonstration took place in the Sari Tagh neighbourhood against, *inter alia*, the absence of communal and other services (see paragraph 7 above). The applicant, a freelance journalist at the time, was present at the event, equipped with a camera. In the video footage captured by the applicant and another journalist, T.Y., at some point the demonstration descended into violent clashes between the police and the demonstrators. The demonstrators can be seen attempting to break through a police checkpoint: a crowd of demonstrators then charge towards the police, hitting officers and throwing stones in their direction[1][2].

9. In the video footage, no press card can be seen on the applicant[3]. He is in the middle of the crowd, filming the confrontation between the demonstrators and the police and, at times, filming very close to the police (including officers A.T. and Sh.H., see below). When the police fire into the air and most of the demonstrators disperse, the applicant approaches a group of three officers, including Sh.H. and H.Sah., who are surrounding a man sitting on the ground, to film them from close up. Then, four other officers, one of whom is pointing at the applicant, along with the group of three officers he is filming, turn towards him[4]. One of the officers can be heard saying, "Who are you filming, huh?" and another says "I have not deleted [it] yet; I will delete [it]..."[5]. The officers can be seen grabbing the applicant, while another officer (later identified as N.A., see paragraph 26 below) makes a hand movement resembling a blow in his direction, although it is unclear whether the blow actually lands on him[6]. Then, officer V.N. can be seen grabbing the applicant. At that point, another officer (later identified as E.M.) runs up to the police officers and strikes the applicant twice, then kicks him. While it is unclear if the blows land on the applicant, he can be seen shielding

[1] https://www.youtube.com/watch?v=0sfR1Pq5WY4 (from minute 5:49; last accessed on 5 February 2025).
[2] https://www.youtube.com/watch?v=NRYHnFdZYBg (from minute 8:55; last accessed on 5 February 2025).
[3] https://www.youtube.com/watch?v=0sfR1Pq5WY4 (In the video footage, the applicant is the man wearing a magenta T-shirt and denim Bermuda shorts and filming with a camera; see from minute 0:32).
[4] See footnote no. 3 above (starting from minute 9:15).
[5] https://www.youtube.com/watch?v=NRYHnFdZYBg (from minutes 11:31-11:38)
[6] https://www.youtube.com/watch?v=0sfR1Pq5WY4 (from minute 9:23).

his head with his hands[7]. Next, officer A.T. grabs the applicant by the arm, while officer A.V. takes hold of the camera and opens the flip screen of the camera. The applicant can be seen explaining something to A.V. When the applicant appears on screen again, his camera is in A.T.'s hands and he is explaining something to A.T. and another officer, H.S. Then, A.T. takes the applicant's camera and starts walking away, while the applicant follows him, holding what seems to be a mobile phone in his left hand. Then, H.S. and A.T. turn to the applicant, with A.T. grabbing him by his T-shirt and H.S. holding him by his arm. Several other officers approach them. T.Y. shouts several times that the applicant is a journalist and demands that the officers let him go. One of them tells T.Y. to back off and pushes her camera down. He announces that the applicant is coming. Later in the video footage the applicant is no longer surrounded by police officers. He and T.Y. can be seen pleading with the police to immediately return the camera. Eventually, the camera is returned after the intervention of a senior police officer, G.Kh.

10. According to the applicant's submissions (uncontested by the Government), the incident happened at about 8.50 p.m.

11. At 9.45 p.m. that evening the applicant was admitted to the Surb Grigor Lusavorich Medical Centre, where he was diagnosed with polytrauma. According to his medical file (as summarised in later forensic medical reports, see paragraphs 17 and 20 below), he presented with complaints of headaches, chest pain, swelling and bleeding of the lip, and lower jaw pain. Following an examination by a maxillofacial surgeon, he was found to have a laceration to the upper lip, which was cleaned and sutured. He also underwent X-rays of the chest, lower jaw, skull and cervical spine; however, no osteo-traumatic changes (fractures or other bone injuries) or hydrothorax (fluid in the chest) were detected, and the bones of the ribs were intact. The applicant subsequently discharged himself.

12. The medical centre forwarded the above information to the Erebuni police station, informing the police that, according to the applicant, he had been assaulted by police officers.

II. CRIMINAL INVESTIGATION

13. On 23 July 2016 an investigator from the Special Investigative Service ("the SIS") decided to open criminal proceedings under the following provisions of the former Criminal Code, in force at the material time: Article 308 § 1 (abuse of official authority); Article 309 § 1 (exceeding official authority); Article 164 § 2 (obstruction of a journalist's lawful professional activities, committed by a public official through abuse of official position, see paragraph 34 below); and Article 332[3] § 1 (interference

[7] See footnote no. 6 above (minutes 9:26-9:31).

with a lawyer's activities). The case was assigned a number (criminal case no. 62219216).

14. The relevant decision stated, *inter alia*, that on 17 July 2016 a group of gunmen had stormed the premises of the PSR (see paragraph 5 above). Between that date and 19 July 2016 police officers had allegedly abused or exceeded their official authority by arresting and assaulting a number of people (apparently demonstrators), as well as holding them in police custody beyond the period permitted by law. In addition, during the same events, they had allegedly obstructed journalists from carrying out their professional activities by abusing their official position.

15. On 25 July 2016 the applicant provided a statement (*բացատրություն*) to a police officer at the Mashtots police station. He stated that he had been a journalist for three years. On 19 July 2016, equipped with his camera and mobile phone, he had gone to the Sari Tagh neighbourhood to film a demonstration. He had been filming for about twenty minutes when a scuffle had broken out between the demonstrators and the police. At one point, he had spotted police officers assaulting a demonstrator, so he had decided to film the incident from close up. Having noticed him, the officers in question had turned to him and, using abusive language and lewd insults, had grabbed his camera and mobile phone. The mobile phone had fallen to the ground. He had tried to pick it up, but one of the officers had snatched it from his hand. Several officers had started to kick or beat him, but he had not retaliated. The officers had left him after taking both his camera and mobile phone. He had pleaded with them to return his equipment and a police officer had returned his camera. The latter had promised to return his mobile phone the following day, but had failed to do so.

16. On 6 August 2016 the SIS investigator decided to order a forensic medical examination to determine the applicant's injuries. The decision referred to the applicant's allegation that on 19 July 2016 he had been assaulted by police officers.

17. The forensic medical examination began on 6 August 2016 and was completed on 26 August 2016. According to the relevant report, a forensic medical expert, after examining the applicant and his file drawn up at the medical centre (see paragraph 11 above), concluded that he had suffered bruising to his upper lip, which had then developed into scars, likely caused by blunt objects on the day indicated in the decision (see paragraph 16 above). The expert did not rule out the possibility that the applicant's injuries – which were described as not meeting the criteria for light damage to health – had been caused in the manner described in the decision (ibid.), as well as by blunt objects in other circumstances.

18. On 6 September 2016 the SIS investigator granted the applicant the procedural status of a victim in criminal case no. 62219216 (see paragraph 13 above) because of the physical injuries and pecuniary and non-pecuniary damage he had suffered. In so far as the text of the applicant's interview is

available to the Court, he reiterated his statement of 25 July 2016 (see paragraph 15 above). According to the applicant, although the police officers had erased the footage he had filmed that day, he had been able to recover it. However, his mobile phone had still not been returned to him by the time of his testimony. He submitted that his claims were supported not only by his own video footage, but also that filmed by his colleague T.Y. (see paragraph 9 above).

19. On an unspecified date the applicant contested the forensic medical report (see paragraph 17 above) regarding the severity of his injuries. In addition, he asserted that, despite his complaints, the forensic medical expert had failed to refer him for an X-ray to ascertain whether he had suffered a rib fracture. As a result, on 6 September 2016 the SIS investigator decided to order an additional forensic medical examination.

20. The additional forensic medical examination (completed on 15 February 2017) confirmed that the applicant had suffered only bruising to his lip, with no light damage to his health. The forensic medical experts did not rule out the possibility that his injury could have resulted from a blow or from him falling to the ground and hitting his lip on a hard, blunt surface.

21. On 11 August 2021 an investigator from the SIS interviewed officer G.A., who had been on duty in the Sari Tagh neighbourhood on 19 July 2016 but had not been involved in the applicant's alleged assault.

22. Following the establishment of the Anti-Corruption Committee ("the ACC") and the dissolution of the SIS, on 23 October 2021 criminal case no. 62219216 was transferred to the ACC.

23. On 25 January 2022 the applicant was again interviewed, this time by an acting ACC investigator. During the interview, he maintained his earlier statements (see paragraphs 15 and 18 above). Although he had had a press card around his neck, it had most likely fallen off as a result of the chaotic situation during the filming of the demonstration (according to the applicant, T.Y.'s video started from the moment he no longer had it) and the police officers must have seen it because he had been actively filming the whole time, in the midst of the police and the demonstrators. However, although he had no longer had his press card on him when the group of police officers had surrounded him, he had explained to them that he was a journalist and had lost his press card earlier.

24. On 17 February 2022 the ACC investigator applied to a prosecutor to extend the time-limit for conducting the investigation by two months, until 23 April 2022, in order to carry out a number of investigative measures, including: (i) additional questioning of victims and police officers (as witnesses); (ii) ordering expert examinations and awaiting the results; (iii) issuing new instructions to the authority in charge of the preliminary inquiry; (iv) adopting relevant procedural decisions based on the evidence collected; and (v) carrying out other necessary investigative and procedural actions. The investigator maintained that these steps were essential for an

objective and thorough examination of the voluminous criminal case, which involved ninety-six victims. Only after completing these would it be possible to determine the course of the criminal case. The investigator's application stated (specifically regarding the applicant) that, during the preceding period (prior to it being lodged), the ACC investigator had examined the video material concerning the incident of 19 July 2016 and had conducted further questioning of the applicant.

25. A prosecutor supervising the investigation in criminal case no. 62219216 allowed the application.

26. Between February and March 2022 the investigator in charge of the above criminal case questioned police officers Sh.H., H.Sah., A.V., H.S., A.T. and V.N. as witnesses. He showed them the video footage filmed by T.Y. showing the applicant's alleged assault and asked them to describe their own actions. They gave identical statements that they had been on duty in the Sari Tagh neighbourhood on 19 July 2016 following the seizure of the PSR building. Although they acknowledged that there could have been dragging from both sides during the confrontation between the police and the demonstrators, they denied that any police officers had assaulted any demonstrators, including the man (seen in the video) sitting on the ground and surrounded by Sh.H. and H.Sah. Specifically regarding the applicant, they claimed that they had not seen any journalists in the area, but that there had been many people filming. They pointed out that in the video footage the applicant was not wearing a press card, so they could not possibly have known that he was a journalist. Almost all of them identified a former officer, N.A., and a serving officer, E.M., who could be seen "making some hand movements" towards the applicant; however, they claimed that they could not remember whether their blows had landed on the applicant.

27. As regards their own conduct, almost all of the officers claimed that they had simply tried to calm the situation and move the applicant aside to prevent a brawl between him and the police. They denied hitting him. As regards the seizure of his camera and mobile phone and the deletion of his video footage, the police officers asserted that they had no recollection of this, but that none of them had seized his mobile phone or erased his footage. In addition, police officers A.V. and A.T. claimed that they had grabbed the applicant's camera to verify if he was indeed a journalist (see paragraph 9 above). According to A.V., even though the applicant had said as much, they had needed to carry out checks because the applicant had not had a press card. In any event, they had returned the camera in no time and had not deleted anything from it.

28. The investigation was extended twice, each time for two months (the latest extension was until 23 August 2022), on similar grounds as previously (see paragraph 24 above). In his latest application for an extension, and in so far as it concerned the applicant, the ACC investigator stated that, following

the questioning of the police officers (see paragraph 26 above), information had been obtained about those who had assaulted the applicant.

29. On 14 July 2022 criminal case no. 62219216 was transferred to the General Department for Investigation of Particularly Important Cases of the Investigative Committee.

30. On 10 February 2023 the applicant was again interviewed by an investigator in charge of the criminal case. According to the interview record, the investigation had established that the person who had hit and kicked him was E.M., who was still a serving police officer. The investigator asked the applicant whether he had any objection to the Amnesty Act (see paragraph 38 below) being applied in respect of E.M., which would result in a decision not to prosecute him. Although the applicant did not object, he later withdrew his consent on the grounds that he had not understood the consequences of such a decision.

31. On 13 February 2023 the investigator informed the applicant's lawyer that no one had been subjected to public criminal prosecution (see paragraph 36 below) within the framework of criminal case no. 62219216.

32. On 13 April 2023 the applicant's lawyer applied to have the investigator recused. She argued that he was not impartial, as he had attempted to convince the applicant that an amnesty should be applied in respect of E.M. but had failed to explain the legal implications of such a decision to the applicant. Moreover, she argued that the Amnesty Act was not even applicable to E.M. (see paragraph 38 below). According to the applicant's lawyer, this showed that the investigator had sided with the police officers.

The outcome of the application for recusal is unknown.

33. The investigation was still pending at the time of the Government's submissions on 17 July 2023.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

A. Former Criminal Code (in force until 30 June 2022)

34. Article 164 § 1 of the former Criminal Code provided that obstructing a journalist's lawful professional activities, or forcing him or her to disseminate or withhold information, was punishable by a fine of 200 to 400 times the fixed minimum wage. Article 164 § 2 provided that the same acts, when committed by a public official in abuse of his or her official position, were punishable by a fine of 400 to 700 times the minimum wage, or by up to three years' imprisonment, with or without the right to hold certain positions or engage in certain activities for up to three years.

B. Former Code of Criminal Procedure (in force until 30 June 2022)

35. Article 181 § 1 of the former Code of Criminal Procedure provided that in each case where information about a crime was received, one of the following decisions would be taken: (i) to open a criminal case; (ii) to refuse to open a criminal case; or (iii) to forward the information to the competent authority.

C. Code of Criminal Procedure (in force from 1 July 2022)

36. Article 189 § 1 of the Code of Criminal Procedure provides that a prosecution is initiated upon the decision of a supervising prosecutor, based on evidence indicating that a person has committed an offence. Article 189 § 2 provides that where the facts referred to in Article 189 § 1 are present, an investigator may submit an application to the supervising prosecutor to initiate a prosecution against the person concerned.

D. Civil Code

37. Article 162.1 § 2 of the Civil Code provides that a person, or, in the event of his or her death or legal incapacity, his or her spouse, parent, adopter, child, adoptee or guardian, has the right to claim compensation in respect of non-pecuniary damage from the court through judicial procedure, if it has been established by an investigating authority, a prosecutor or a court that, as a result of a decision, action or omission by a State or local self-governance body or one of its officials, his or her fundamental rights guaranteed by the Constitution and the Convention, including the right to freedom of expression, have been breached.

E. Amnesty Act (adopted on 1 November 2018 on the occasion of the 2800th Anniversary of the Foundation of Erebuni-Yerevan and the 100th Anniversary of the Proclamation of Independence of the First Republic of Armenia)

38. Under section 2(10)(5), no amnesty may be applied to persons accused of or convicted for offences under, *inter alia*, Article 164 of the former Criminal Code. Under section 2(11)(1), criminal cases opened against persons who committed a crime on the territory of the Patrol Service Regiment of the Armenian Police between 17 and 31 July 2016, those who conspired with them, or those who attempted to commit a crime or prepared for a crime in relation to these acts, as well as those who committed related crimes in surrounding areas, and those accused of or convicted of preparing for mass disorder on 24 April 2015, will be closed, criminal prosecution will not be pursued, criminal proceedings will be terminated, or they will be

released from punishment, provided that the victims who were held hostage and/or sustained physical harm do not object.

II. DOMESTIC PRACTICE

39. The Government submitted fifteen examples of domestic practice in which persons had been prosecuted and tried under Article 164 of the former Criminal Code. Of the fifteen cases submitted, two concerned the trial of police officers under Article 164 § 2 for obstruction of journalists' lawful professional activities, one case concerned reserve officers (under Article 164 § 1), while the remaining cases concerned obstruction of journalists' work by private individuals (under Article 164 § 1). Of the two above-mentioned cases involving serving police officers, one concerned the arrest of journalists by police officers while they were covering the dispersal of a demonstration. The second case concerned obstruction of a journalist's work while he was filming a demonstration and his subsequent arrest by force. The defendants were fined 500,000 Armenian drams (AMD)[8]. The earliest guilty verdict was handed down by the relevant criminal court of general jurisdiction in 2017.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

40. The applicant alleged that on 19 July 2016, while he had been carrying out his journalistic activities, police officers had assaulted him, taken his mobile phone and camera and, even though they had returned the camera, the footage he had filmed that day had been deleted. He relied on Article 10 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

[8] At the material time the equivalent of around 930 euros.

A. Admissibility

Exhaustion of domestic remedies

(a) The parties' arguments

(i) The Government

41. The Government argued that the applicant's complaint was inadmissible for non-exhaustion of domestic remedies. They submitted, in particular, that the institution of a criminal case in accordance with Article 181 § 1 (1) of the former Code of Criminal Procedure (see paragraph 35 above) for obstruction of a journalist's lawful professional activities – a criminal offence under Article 164 of the former Criminal Code (see paragraph 34 above) – was an effective remedy within the meaning of Article 35 § 1 of the Convention in respect of the applicant's complaint under Article 10. In this connection, they provided fifteen examples of domestic practice in which persons had been convicted of obstructing a journalist's work under Article 164 of the former Criminal Code (see paragraph 39 above). In addition, they argued that after a violation of a person's rights had been acknowledged by the domestic courts, he or she could claim compensation in respect of non-pecuniary damage under Article 162.1 of the Civil Code (see paragraph 37 above), including for a breach of his or her right to freedom of expression by a public official.

42. The Government therefore claimed that the applicant's complaint should be declared premature because the criminal investigation opened on account of, *inter alia*, the alleged obstruction of his journalistic work by police officers (see paragraph 13 above) was still pending at the time of their latest submissions on 17 July 2023. As regards the applicant's allegation that the criminal investigation had been ineffective, they submitted that it had been too early to draw such a conclusion at the time of his application on 19 January 2017, given that the investigation had only just begun. This was all the more so as the case involved a large number of victims and witnesses. Similarly, the applicant could not refer to the alleged excessive length of the investigation to argue that it had been ineffective because this had only become clear years after his application to the Court. Lastly, as regards the investigator's suggestion to apply an amnesty (see paragraph 30 above), the Government contested the applicant's allegation that he had not been informed of the implications of such a decision. In any event, no amnesty had been applied simply because the applicant had later withdrawn his consent and thereby objected to it (ibid.).

(ii) The applicant

43. The applicant submitted that a criminal investigation did not in itself constitute an effective remedy. He pointed out, *inter alia*, that the

investigation into his complaint had been pending since 2016, that is, slightly less than seven years at the time of his observations on 14 April 2023. In this connection, while he and his colleague T.Y. had been interviewed back in 2016 and a forensic medical examination had been ordered to determine his injuries, the implicated police officers had not been questioned until 2022. Thus, between 2017 and 2022 (almost five years), no investigative measures had been taken in relation to his complaint. In addition, even though the investigation had identified the officers involved in the alleged obstruction of his journalistic work, the authorities had failed to take any concrete measures in that regard. They had failed to find and interview the officers who had assaulted him, namely N.A. and E.M. By the time of his submissions on 14 April 2023, no police officers had been charged with an offence. Given the length of the investigation, it was possible that no police officers would ultimately be prosecuted owing to the statute of limitations. The applicant further submitted that there had been an administrative practice of not investigating alleged breaches of the rights of demonstrators and journalists by the police during the protests of 17 to 30 July 2016.

44. Lastly, the applicant claimed that the investigator had tried to obtain his consent to apply an amnesty to the police officer involved in his alleged assault, without, however, explaining the potential ramifications such a decision could have on his own rights. This was despite the fact that the Amnesty Act was not even applicable to the police officer, as was clear from the unambiguous wording of section 2(11)(1) of that Act (see paragraphs 32 and 38 above).

45. The applicant thus argued that the remedy in question – the opening of a criminal case under Article 164 of the former Criminal Code – was obviously not effective for the purposes of the exhaustion rule, and that his complaint was therefore not premature.

(b) The Court's assessment

46. The general principles concerning the exhaustion of domestic remedies have been summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, § 69 et seq., 25 March 2014) and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, § 138 et seq., 27 November 2023). The obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances (ibid., § 139, and the authorities cited therein).

47. In addition, the speed of the procedure for remedial action may also be relevant to whether it is practically effective in the particular circumstances of a given case for the purposes of Article 35 § 1 of the Convention (see, *mutatis mutandis*, *McFarlane v. Ireland* [GC], no. 31333/06, § 123, 10 September 2010).

48. The Court reiterates that where acts that constitute serious offences are directed against a person's physical or mental integrity, only efficient criminal-law mechanisms can ensure adequate protection and serve as a deterrent factor (see *Identoba and Others v. Georgia*, no. 73235/12, § 86, 12 May 2015). The Court would also refer to Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors, in which the Committee of Ministers recommended (in paragraph 19 of guidelines set out in the appendix to the recommendation) that the conclusions of an investigation had to be based on a thorough, objective and impartial analysis of all the relevant elements, including the establishment of whether there was a connection between the threats and violence against journalists and other media actors and the exercise of journalistic activities or contributing in similar ways to public debate.

49. In this connection, Article 164 of the former Criminal Code, and in particular Article 164 § 2, made it an offence for a public official to obstruct a journalist's work. In the present case, the applicant complained that he had been assaulted by police officers while carrying out his journalistic work and that his camera and mobile phone – which he had used to film the demonstration – had been seized and the video footage (he had filmed that day) had been deleted by them. The Court therefore considers that the opening of an investigation into the police officers' alleged obstruction of the applicant's journalistic work was a highly relevant step to allow the identification of the officers implicated and bring them to account precisely for obstructing a journalist's professional activities.

50. In the present case, the Court does not need to establish whether, as suggested by the applicant, there was an administrative practice of not prosecuting police officers for obstruction of a journalist's work (see paragraph 43 above). The question before the Court is whether the applicant's complaint should be seen as premature given that the criminal investigation in question is still pending.

51. In this connection, the Court observes that the investigation into the applicant's complaint had been pending for seven years by the time of the Government's latest submissions on 17 July 2023. However, as stated above, the speed of the procedure for remedial action may also be relevant to whether it is practically effective in the particular circumstances of a given case for the purposes of Article 35 § 1 of the Convention (see the relevant case-law cited in paragraph 47 above). Although the Government referred to the fact that the criminal case involved a large number of victims and witnesses and thus called for a variety of investigative measures (see paragraph 42 above), the Court notes that, as regards the incident involving the applicant, the investigation had all the necessary material at its disposal: the video evidence of the incident, the testimony of the applicant and his colleague who had filmed it, and medical documents, including forensic medical expert reports,

confirming the applicant's injuries. However, even though the authorities opened an investigation on 23 July 2016 and subsequently interviewed the applicant and his colleague in mid-2016, the first police officer involved in the alleged assault on the applicant was not interviewed until the beginning of 2022, that is, more than five years after the start of the investigation (see paragraph 26 above). This was despite the fact that the video footage produced both by the applicant and T.Y., which the applicant submitted during his interview, was available to the authorities and made it possible to identify all the officers involved in the incident.

52. The Court further observes that, even a year after the police officers allegedly involved in the obstruction of the applicant's journalistic work were interviewed, no criminal charges had been brought against any of them (see paragraph 31 above). Rather, on 10 February 2023 the investigator in charge of the criminal case interviewed the applicant for the sole purpose of seeking his consent to the application of an amnesty to E.T., who was still a serving police officer, which would have effectively resulted in a decision not to prosecute him.

53. It is true that when the applicant lodged his application, it was too early to draw conclusions on the effectiveness of the investigation, including its speed and eventual stagnation. However, the Court's assessment of the admissibility of applications cannot be made in disregard of relevant developments since they were lodged. In the present case, the parties made detailed submissions referring to such later developments, and the Government relied on documents and information about pending domestic proceedings which continue to date. In so far as the applicant acted diligently by cooperating with the ongoing investigation, including after the lodging of his application, and having regard to the considerations in the preceding paragraphs, the Court cannot accept that his application should now be rejected as premature (compare *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 302, 21 January 2021). In this connection, the Court has consistently held that, when examining a complaint, it can take into account facts which have occurred after the lodging of the application but are directly related to those covered by it (see ibid., and *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 249-51, 28 November 2017).

54. In so far as the Government pleaded non-exhaustion referring to the possibility of claiming compensation in respect of non-pecuniary damage under Article 162.1 of the Civil Code, the Court observes that, according to the Government, the success of this remedy was directly linked to the outcome of the criminal investigation and, in particular, to the conviction of the police officers in question. However, no police officer was convicted in the applicant's case.

55. In the light of the foregoing, the Court dismisses the Government's objections.

56. The Court further notes that the complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

57. The applicant complained that, during the demonstration on 19 July 2016, he had allegedly witnessed police officers assaulting a demonstrator and had decided to film the incident from close up. However, having noticed the applicant, a group of police officers had assaulted him and seized his camera and mobile phone. Although they had eventually returned his camera, they had deleted the video footage he had filmed that day. The applicant argued that this had constituted an unlawful and unjustified interference with his right to freedom of expression, which had not pursued a legitimate aim and had been disproportionate.

58. The applicant claimed that the police officers had known that he was a journalist. In particular, he had had a press card when he had started filming the demonstration and had been actively filming when the demonstrators had clashed with the police. While he had lost his press card at some point, it had been obvious to the police that he was a journalist and not a demonstrator because he had been equipped with a professional camera and had been filming the events, including when he had started filming the alleged assault of one of the demonstrators. The applicant argued that, even if the police officers had not understood that he was a journalist, his colleague had shouted aloud that he was one. Nevertheless, the police officers had seized his equipment and deleted the footage filmed on his camera. The applicant submitted that he had later been able to recover his footage and share it online.

59. The Government did not make any submissions on the merits of the complaint, arguing that it was premature.

2. The Court's assessment

60. The Court reiterates that measures of the public authorities preventing journalists from doing their work or adversely affecting the exercise of their functions may raise issues under Article 10 (see *Pentikäinen v. Finland* [GC], no. 11882/10, § 83, ECHR 2015, and *Najafli v. Azerbaijan*, no. 2594/07, § 68, 2 October 2012).

61. In the present case, the applicant was covering a demonstration which descended into a violent confrontation between the demonstrators and the police. Even though no press card can be seen on the applicant in the video footage submitted, it appears undisputed that he and his colleague informed the police officers that the applicant was a journalist (see paragraphs 9, 23 and 27 above). He was filming the demonstration for a while, including when

he found himself between the two opposing groups of demonstrators and the police. Therefore, while acknowledging the state of commotion during the demonstration on 19 July 2016, the applicant's presence could not have gone unnoticed by the police, given that they were on high alert and the applicant was filming quite actively near and around the rows of police officers, including officers A.T. and Sh.H. (see paragraph 9 above). In any event, even if the police officers could not have known with absolute certainty whether the applicant was a journalist in the absence of his press card, it was at the very least obvious to them that his filming was, in all likelihood, an activity involving the exercise of his right to receive and impart information. This is further demonstrated by the fact that when the police officers surrounded him, one of them immediately asked him, "Who are you filming, huh?".

62. The Court further observes that the police officers not only grabbed and dragged the applicant, but at least one of them assaulted him: while the video footage does not make it possible to establish if their blows struck him, shortly after the incident he was found to have a lip injury, which was later confirmed by medical experts (see paragraphs 9, 11, 17 and 20 above). What is more, even though both the applicant and his colleague told the police that the applicant was a journalist, and despite their repeated requests that the camera be returned, the police officers did so only after some time had passed and a senior police officer intervened (see paragraphs 9, 15, 23 and 27 above). In these circumstances, having regard to the material in its possession, including the video evidence of the incident (the authenticity of which was not contested by the Government), the Court concludes that the police officers' actions effectively disrupted and impeded the applicant's journalistic work and thus amounted to an interference with his right to freedom of expression.

63. In such circumstances, the Court does not consider it necessary to establish whether, as argued by the applicant, the police officers had also deleted his video footage from the camera or had seized his mobile phone because the foregoing considerations are sufficient to conclude that the attack on the applicant and the seizure of his camera while he was filming, seriously hampered the exercise of his right to receive and impart information (compare, *Mammadov and Abbasov v. Azerbaijan*, no. 1172/12, § 62, 8 July 2021).

64. As regards whether the interference was justified, when questioned as witnesses, the police officers who had either grabbed the applicant or taken his camera did not put forward any reasonable justification for their actions. Although they claimed not to have known that the applicant was a journalist, they firstly denied their conduct as shown on the video or argued that they had simply tried to calm the situation. However, it is undisputed that the applicant was neither armed nor violent. Rather, he was simply attempting to film what he perceived to be an assault on a civilian. He therefore did not engage in any kind of conduct that could have made the police officers believe

that he posed a threat or that grabbing or dragging him or taking his camera was necessary. The Government offered no explanation as to the reasons for the police officers' assaulting a journalist or taking his camera and have not cited a legal basis in domestic law for such an action.

65. Having regard to the above, the Court finds that it has not been shown by the Government that the interference with the applicant's Article 10 rights was lawful and pursued a legitimate aim. Therefore, it could not be considered "necessary in a democratic society" within the meaning of Article 10 § 2.

66. There has accordingly been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

67. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

68. The applicant claimed 82 euros (EUR) for the alleged loss of his mobile phone and EUR 10,000 in respect of non-pecuniary damage.

69. The Government contested these claims.

70. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, the Court awards the applicant EUR 4,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

71. The applicant also claimed EUR 3,800 for costs and expenses incurred before the Court.

72. The Government challenged the applicant's claim, arguing that, firstly, he had failed to submit any contract showing that he was under an obligation to pay his lawyers. In addition, the amount claimed was excessive because the case was not, in their view, complex.

73. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among many authorities, *Magyar Kétfarkú Kutya Párt v. Hungary* [GC], no. 201/17, § 125, 20 January 2020). In the present case, the applicant did not provide any contract with his representatives or other evidence that he had paid or was under an obligation to pay them for his representation before the

Court. The Court therefore makes no award under this head (compare *Dareskizb Ltd v. Armenia*, no. 61737/08, § 100, 21 September 2021).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 10 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 3 April 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik	Mattias Guyomar
Registrar	President