



The Grand Chamber finds that arrests in 2012 and 2014 caused several violations of Aleksey Navalnyy's rights

The **Grand Chamber**¹ case of **Navalnyy v. Russia** (application no. 29580/12 and four others) concerned the applicant's complaint that his arrest, detention and administrative conviction on seven occasions in 2012 and 2014 had breached his rights and had been politically motivated.

In its judgment the Grand Chamber of the European Court of Human Rights held unanimously that there had been:

a violation of Article 5 § 1 (right to liberty and security/lawfulness of arrest or detention) of the European Convention on Human Rights,

a violation of Article 6 § 1 (right to a fair trial) as regards six sets of administrative proceedings,

no violation of Article 6 § 1 over a seventh set of administrative proceedings, and

a violation of Article 11 (freedom of assembly and association) of the European Convention.

It also held by fourteen votes to three that there had been,

a violation of Article 18 (limitation on use of restrictions on rights) of the Convention.

The Grand Chamber, endorsing the reasoning of a Chamber [judgment](#) in the case, found violations of Mr Navalnyy's rights under Article 5 owing to his seven arrests and two instances of pre-trial detention, and under Article 6 over six out of seven sets of court proceedings after the arrests.

The Court also found a violation of Article 11, holding that two of the arrests had lacked a legitimate aim while the five others had not been necessary in a democratic society. The Grand Chamber significantly expanded the reasoning of the Chamber under this provision.

The Court found that Mr Navalnyy's complaint under Article 18 that the arrests had been politically motivated represented "a fundamental aspect" of the case. Focussing on two of the arrests, the Court held that they had actually aimed at suppressing political pluralism, in violation of Article 18 in conjunction with Article 5 and 11.

It also recommended under **Article 46 (binding force and execution of judgements)** of the European Convention that the Government take measures to ensure the right to peaceful assembly in Russia.

Principal facts

The applicant, Aleksey Anatolyevich Navalnyy, is a Russian national who was born in 1976 and lives in Moscow. He is a political activist, opposition leader, anti-corruption campaigner and blogger.

Mr Navalnyy was arrested on seven occasions between 2012 and 2014 at different public gatherings.

First, he was arrested on the evening of 5 March 2012 during a meeting held in Moscow's Pushkinskaya Square involving around 500 people, which was devoted to the allegedly rigged Russian presidential elections. Then, during an overnight "walkabout" in Moscow on 8 May 2012, where activists met to discuss the inauguration of President Putin the previous day, Mr Navalnyy

1. Grand Chamber judgments are final (Article 44 of the Convention).

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was arrested on two occasions: firstly in the early hours of the morning whilst walking down Lubyanskiy Proyezd accompanied by about 170 people; and secondly between 11 p.m. and midnight, whilst walking down Bolshaya Nikitskaya Street in a group of around 50 people.

At 6 a.m. on 9 May 2012 Mr Navalnyy was arrested once again, this time at Kudrinskaya Square in Moscow whilst in a gathering of 50 to 100 people discussing current affairs. Later on in the year, on 27 October 2012 Mr Navalnyy picketed the Russian Investigation Committee to protest against “repressions and torture” in co-ordination with around 30 others, and was arrested – according to him, whilst walking away from the event.

Finally, Mr Navalnyy was arrested twice on 24 February 2014: first when attending Zamoskvoretskiy District Court for the delivery of the judgment in a case concerning Bolotnaya Square protestors; and second while at a public gathering of about 150 people in Tverskaya Street later that evening.

Following each of the arrests, Mr Navalnyy was taken to a police station for several hours while an offence report was drawn up. He was then charged with an administrative offence of either breaching the established procedure for conducting public events (under Article 20.2 of the Code of Administrative Offences); or disobeying a lawful police order (under Article 19.3 of the Code). On two of the occasions, after being arrested and charged he was kept in pre-trial detention (for a number of hours on 9 May 2012; and overnight on the evening of 24 February 2014).

All of the charges led to a hearing in which Mr Navalnyy was convicted of an offence. He was five times given a fine, ranging from 1,000 to 30,000 Russian roubles, and was twice sentenced to administrative detention (15 and seven days). All of his appeals were dismissed.

Complaints, procedure and composition of the Court

The applications, nos. 29580/12, 36847/12, 11252/13, 12317/13 and 43746/14, were lodged on 14 May 2012, 28 May 2012, 30 November 2012, 14 January 2013 and 6 June 2014.

Relying on Article 5 (right to liberty) of the European Convention on Human Rights, Mr Navalnyy complained that the seven arrests (and two instances of pre-trial detention) were unlawful and arbitrary deprivations of liberty.

He complained under Article 6 (right to a fair trial) that the subsequent proceedings against him were all unfair. Relying on Article 11 (right to freedom of assembly), Mr Navalnyy complained that the authorities had repeatedly interrupted peaceful gatherings by arresting, prosecuting and convicting him. Mr Navalnyy also relied on Article 14 (prohibition of discrimination), and Article 18 (limitation on the restriction of rights), taken in conjunction with Articles 5 and 11, to complain that the authorities’ actions were politically motivated.

In its Chamber [judgment](#) of 2 February 2017, the Court held, unanimously, that there had been violations of Mr Navalnyy’s rights under Article 5, under Article 6 on account of six of the seven sets of administrative proceedings, and under Article 11.

It decided that it was not necessary to examine his complaints under Article 14 and Article 18 in conjunction with Article 11. It also decided, by four votes to three, that it was not necessary to examine his complaint under Article 18 in conjunction with Article 5.

On 29 May 2017 the Grand Chamber Panel accepted the requests of both Mr Navalnyy and the Government that the case be referred to the Grand Chamber under Article 43.

A [hearing](#) in the case was held on 24 January 2018.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Guido Raimondi (Italy), *President*,
Angelika Nußberger (Germany),

Linos-Alexandre **Sicilianos** (Greece),
Ganna **Yudkivska** (Ukraine),
Robert **Spano** (Iceland),
Ledi **Bianku** (Albania),
André **Potocki** (France),
Aleš **Pejchal** (the Czech Republic),
Faris **Vehabović** (Bosnia and Herzegovina),
Dmitry **Dedov** (Russia),
Armen **Harutyunyan** (Armenia),
Georges **Ravarani** (Luxembourg),
Pauliine **Koskelo** (Finland),
Tim **Eicke** (the United Kingdom),
Jolien **Schukking** (the Netherlands),
Péter **Paczolay** (Hungary),
Lado **Chanturia** (Georgia),

and also Søren **Prebensen**, *Deputy Grand Chamber Registrar*.

Decision of the Court

Articles 5 and 6

The Court found a violation of Mr Navalnyy's rights under Article 5 because of his arrest on seven occasions and his pre-trial detention on two occasions.

It endorsed the Chamber's conclusion that there had been no reason why the administrative offence reports about Mr Navalnyy could not have been drawn up on the spot, rather than at a police station. The Government had not provided any justification for his having been held for several hours before being taken before a judge on one occasion and held overnight another time.

It also agreed with the Chamber's reasoning under Article 6 that there had been no violation of his rights in one set of administrative proceedings (events of 5 March), but that there had been violations of his rights in relation to the proceedings for the other six episodes. In those instances the courts had based their judgments solely on the account of events given by the police.

Article 11

The Court emphasised that the right of assembly was a fundamental right and that while Governments could have procedures for the authorisation of assemblies, the enforcement of such rules could not be an end in itself.

For an interference with someone's Article 11 rights to be justified, it had to pursue, in particular, a "legitimate aim", such as the prevention of crime or disorder or protecting the rights of others. However, such an aim had been absent when it came to the fifth and sixth arrests.

In particular, his fifth arrest had happened as he and others were walking away from a stationary demonstration. The group had been on the pavement and had not been disruptive. In the sixth incident, the authorities had decided that people waiting outside a court had constituted an unauthorised public gathering. Some of them had shouted political slogans, but there was no evidence Mr Navalnyy had joined them.

The Court found that the other five arrests, while possibly pursuing a "legitimate aim", had violated Mr Navalnyy's rights because they had not been "necessary in a democratic society". None of the assemblies in question had caused any disruption but had all been dispersed. However, the Court

required that Governments show a degree of tolerance to peaceful gatherings, even if they had not been authorised.

Furthermore, Mr Navalnyy had suffered penalties of a criminal nature, even though such measures should not in principle be applied to people taking part in peaceful assemblies.

Article 18

Considering that this complaint was a fundamental aspect of the case, the Court focused in particular on the fifth and sixth arrests, where it had found an absence of a legitimate aim.

It noted that Mr Navalnyy had been arrested seven times over a relatively short period of time. He had played a leading role in the first four episodes, but not in the fifth and sixth. Nevertheless, the police had targeted him specifically for arrest in the latter episode.

The Court found that there was “converging contextual evidence” that the authorities were becoming increasingly severe towards Mr Navalnyy and that his allegation of being a particular target appeared coherent in the context of a general move to bring the opposition under control.

The Court found it established beyond reasonable doubt that the restrictions on him in the fifth and the sixth episodes had pursued an ulterior purpose, which was to “suppress that political pluralism which forms part of ‘effective political democracy’ governed by ‘the rule of law’, both being concepts to which the Preamble to the Convention refers”.

There had therefore been a violation of Article 18 in conjunction with Article 5 and Article 11.

Article 46

The Court reiterated its earlier case-law that Russian legislation on demonstrations, protests and gatherings did not have proper safeguards against arbitrary interference ([Lashmankin and Others v. Russia](#)), and that there had been a pattern of Article 11 violations because assemblies had been dispersed simply because they lacked proper authorisation ([Kasparov and Others v. Russia \(No.2\)](#)).

In Mr Navalnyy’s case it had also found a “structural inadequacy” in the regulatory framework.

The Court called on Russia to provide a legal mechanism for the authorities to take due regard of the fundamental importance of the right to peaceful assembly and show the necessary tolerance for unauthorised, peaceful gatherings.

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 50,000 euros (EUR) in respect of non-pecuniary damage, EUR 1,025 in respect of pecuniary damage and EUR 12,653 for costs and expenses.

Separate opinion

Judges Pejchal, Dedov, Ravarani, Eicke and Paczolay expressed a partly concurring, partly dissenting separate opinion which is annexed to the judgment.

The judgment is available in English and French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.