KEY THEME[1]
Mass Protests
The right to a fair trial

(Last updated: 31/08/2026)

Introduction

According to the Court's case-law, the general requirements of fairness contained in Article 6 apply to all criminal proceedings, irrespective of the type of offence in issue (*Ibrahim and Others v. the United Kingdom* [GC], 2016, § 252). This accordingly applies to cases concerning mass protests.

In this connection, the Court has relied on the *Engel* criteria to determine the existence of a criminal charge and, ultimately, the applicability of Article 6 to administrative proceedings, which are in practice often instituted against protesters (*Kasparov and Others v. Russia*, 2013; *Navalnyy v. Russia* [GC], 2018; *Mikhaylova v. Russia*, 2015).

In some cases, the issues with the observance of procedural safeguards in the criminal (administrative) proceedings against protesters are examined as the procedural aspects of an Article 11 complaint. In this connection, the Court finds that the Article 6 complaint essentially concerns the alleged breach of the applicant's right to freedom of assembly and that it should be examined from the standpoint of Article 11 of the Convention (for instance, *Gülcü v. Turkey*, 2016, § 75). However, often the procedural deficiencies from the perspective of Article 6 are considered to be such that would warrant a separate examination under Article 6 (for instance, *Huseynli and Others v. Azerbaijan*, 2016, §§ 96 and 112-118).

Principles drawn from the current case-law

In the context of mass protests, when confronted with various allegations of a breach of the right to a fair trial, the Court examines in turn each of the various grounds giving rise to the complaints in order to determine whether the proceedings, considered as a whole, were fair (*Gafgaz Mammadov v. Azerbaijan*, 2015, § 75).

In practice, protesters are often prosecuted in expeditious trials. The Court has considered that recourse to such procedures when a "criminal charge" is determined is not in itself contrary to Article 6 as long as the procedure provides the necessary safeguards and guarantees (see *Borisova v. Bulgaria*, 2006, § 40).

This, in particular, concerns the following safeguards and guarantees (*ibid.*; *Gafgaz Mammadov v. Azerbaijan*, 2015, § 77; *Butkevich v. Russia*, 2018, § 92):

- Full, detailed information to the defendant concerning the charges against him or her, and consequently the legal characterisation that the court might adopt in the matter (Article 6 § 3 (a));
- Adequate time and facilities for the preparation of the defence (Article 6 § 3 (b));

[1] Prepared by the Registry. It does not bind the Court.

- The right to participate effectively in the examination of evidence and witnesses (Article 6 §§ 1 and 3 (d) (*Butkevich v. Russia*, 2018, §§ 91-103; *Mushegh Saghatelyan v. Armenia*, 2018, §§ 200-212; *Olga Kudrina v. Russia*, 2021, §§ 38-41);
- More generally, the principle of equality of arms specifically in relation to the possibility of the defendant to present his or her version of the circumstances of the arrest during a protest (*Kasparov and Others v. Russia*, 2013, §§ 63-69; *Navalnyy and Gunko v. Russia*, 2020, §§ 69-70);
- The right to a duly reasoned judgment (Article 6 § 1) (*Navalnyy v. Russia* [GC], 2018, §§ 83-84).

In this context, issues may also arise from the perspective of the impartiality of the court if the prosecuting party is absent from the (administrative) proceedings concerning offences allegedly committed during protests (*Elvira Dmitriyeva v. Russia*, 2019, §§ 103-105; compare and contrast *Mzhavanadze and Rukhadze v. Georgia*, 2025, § 49). The Court has found that the lack of a prosecuting party had an effect on the operation of the presumption of innocence during the trial and, by implication, on the question of the trial court's impartiality and vice versa (*Karelin v. Russia*, 2016, §§ 69-84).

The Court has also emphasised the importance of early access to a lawyer (*Beuze v. Belgium* [GC], 2018). In the context of mass protests, the issue of lack of access to a lawyer may arise with respect to the arrest and first questioning or in relation to the subsequent proceedings against the protester (*Mikhaylova v. Russia*, 2015; *Huseynli and Others v. Azerbaijan*, 2016, §§ 125-134).

Noteworthy examples

- *Navalnyy v. Russia* [GC], 2018 – judicial decisions not based on an acceptable assessment of the relevant facts as they only took into account the version of events presented by the police;
- *Kasparov and Others v. Russia*, 2013 – concerning the national classification of the administrative offence of breaching the regulations on holding demonstrations;
- *Gafgaz Mammadov v. Azerbaijan*, 2015 – concerning the lack of adequate time and facilities for the applicant to prepare for his defence;
- *Karelin v. Russia*, 2016 – lack of a prosecuting party, which had an impact on the applicant´s presumption of innocence and right to a fair trial in general;
- *Butkevich v. Russia*, 2018 – applicant not being afforded the opportunity to challenge the witness evidence which was solely constituted by police pre-trial reports;
- *Navalnyy and Gunko v. Russia*, 2020 – concerning the refusal of national courts to verify the second applicant's explanation regarding the circumstances of the arrest;
- *Mzhavanadze and Rukhadze v. Georgia*, 2025 – in proceedings where police acted as a prosecuting authority, the domestic courts' reliance solely on police officers' account, although they could or should have produced body-worn camera footage, placed the second applicant in a position of having to prove his innocence.

Recap of general principles

- *Butkevich v. Russia*, 2018, §§ 86-90;
- *Karelin v. Russia*, 2016, §§ 72-84;
- *Gafgaz Mammadov v. Azerbaijan*, 2015, §§ 74-77;
- *Kasparov and Others v. Russia*, 2013, §§ 39-45.

Further references

Other key themes:

- Absent witnesses and other restrictions on the right to examine witnesses (Article 6 criminal limb)
- Access to a lawyer (Article 6 criminal limb)
- Presumption of innocence (Article 6 criminal limb)
- Exhaustion of domestic legal remedies/compliance with the four-month rule (Article 6 criminal limb)
- Waiver of the guarantees of a fair trial (Article 6 criminal limb)

KEY CASE-LAW REFERENCES

Leading cases:

- *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, 15 November 2018 (no violation of Article 6 § 1 as regards the administrative proceedings concerning the events of 5 March 2012; violation of Article 6 § 1 as regards the remaining six sets of proceedings).

Other cases:

- *Borisova v. Bulgaria*, no. 56891/00, 21 December 2006 (violation of Article 6 §§ 1 and 3 (a), (b) and (d) on account of the lack of fairness of the proceedings against the applicant and the lack of respect of the rights of the defence);
- *Kasparov and Others v. Russia*, no. 21613/07, 3 October 2013 (violation of Article 6 regarding the first eight applicants);
- *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, 15 October 2015 (violation of Article 6 §§ 1 and 3);
- *Mikhaylova v. Russia*, no. 46998/08, 19 November 2015 (violation of Article 6 §§ 1 and 3 (c));
- *Gülcü v. Turkey*, no. 17526/10, 19 January 2016 (violation of Article 11);
- *Huseynli and Others v. Azerbaijan*, nos. 67360/11 and 2 others, 11 February 2016 (violation of Article 6 §§ 1 and 3 in respect of all three applicants);
- *Karelin v. Russia*, no. 926/08, 20 September 2016 (violation of Article 6 § 1 on account of the impartiality requirement);
- *Butkevich v. Russia*, no. 5865/07, 13 February 2018 (violation of Article 6 § 1 on account of the requirement of objective impartiality, and as regards the fairness requirement);
- *Elvira Dmitriyeva v. Russia*, nos. 60921/17 and 7202/18, 30 April 2019 (violation of Article 6 § 1);
- *Mushegh Saghatelyan v. Armenia*, no. 23086/08, 20 September 2018 (violation of Article 6 § 1 as regards the fairness of the applicant's trial);
- *Navalnyy and Gunko v. Russia*, no. 75186/12, 10 November 2020 (violation of Article 6 § 1 as regards the fairness of the administrative proceedings in respect of each applicant);
- *Olga Kudrina v. Russia*, no. 34313/06, 6 April 2021 (violation of Article 6 §§ 1 and 3 (d) in relation to a failure of the domestic courts to examine witnesses for the defence);
- *Matchavariani v. Georgia*, no. 46852/21, 20 May 2025 (no violation of Article 6 § 1 objective impartiality requirement as regards a brief adjournment of the administrative proceedings to allow the police, acting as a prosecuting authority, to gather additional evidence);
- *Mzhavanadze and Rukhadze v. Georgia*, nos. 29760/21 and 33931/21, 15 July 2025, (violation of Article 6 § 1 (overall fairness) in respect of the second applicant and no violation of Article 6 § 1 (overall fairness) as regards the first applicant).