

March 2009

***Barraco v. France* - 31684/05**

Judgment 5.3.2009 [Section V]

Article 11

Article 11-1

Freedom of peaceful assembly

Complete blockade of motorway by heavy-goods vehicles in "go-slow" operation:
no violation

Facts: The applicant is a lorry driver. In 2002 seventeen motorists, including the applicant, took part in a traffic-slowng operation on a motorway, which involved driving along a predetermined route in a convoy, at slow speed, occupying several lanes, to slow down the traffic on the motorway. When three drivers at the front of the convoy, one of whom was the applicant, stopped their vehicles, completely blocking the road for other users, the police arrested them. The drivers concerned were summoned to appear in court for having obstructed the public highway by placing or attempting to place on it an object that obstructed vehicular traffic, or using or attempting to use any means to obstruct it – in the instant case by stopping their vehicles several times. The court acquitted the accused, but the public prosecutor appealed and the Court of Appeal set aside that judgment, found them guilty as charged and sentenced them each to a suspended term of three months' imprisonment together with a EUR 1,500 fine. The Court of Cassation dismissed an appeal on points of law lodged by the applicant.

Law: The applicant's conviction had amounted to interference by the public authorities with his right to freedom of peaceful assembly, which included freedom to demonstrate. The interference had been "prescribed by law" and had pursued the legitimate aims of preventing disorder and protecting the rights and freedoms of others. As to whether it had been necessary in a democratic society, it was to be noted that no formal prior notice of the demonstration had been given as required by the relevant domestic law. However, the authorities had been aware of it and had also had the opportunity to take measures for the protection of safety and public order, for example by organising police protection and a police escort. So even if the demonstration had not been tacitly tolerated, at least it had not been prohibited. Moreover, the applicant had not been convicted of taking part in the demonstration as such, but for his particular conduct during the demonstration, namely, blocking a motorway and thereby causing more of an obstruction than would normally be caused by exercising one's right to freedom of peaceful assembly. It was indeed clear from the case file that while the demonstration was in progress, from 6 to 11 a.m., the traffic had been held up, but also that several total stoppages had been caused by drivers at the head of the convoy, including the applicant, stopping their vehicles. This complete blockage of the traffic had clearly gone beyond the mere inconvenience caused by any demonstration on the public highway. The police, whose task had been to protect safety and public order, had arrested the three demonstrators only in order to unblock the traffic, after the drivers had been warned several times not to stop their vehicles on the motorway and informed of the penalties

they could incur. In that context and for several hours, the applicant had been able to exercise his right to freedom of peaceful assembly and the authorities had displayed the tolerance that should be shown towards such gatherings. The applicant's conviction and sentence had therefore not been disproportionate to the aims pursued.

Conclusion: no violation (unanimously).

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