



Armenian authorities failed to prevent the death of a bullied army lieutenant who was a known suicide risk and shortcomings in the investigation

In today's **Chamber judgment**¹ in the case of [Hovhannisyan and Nazaryan v. Armenia](#) (application nos. 2169/12 and 29887/14) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 – substantive aspect (right to life) of the European Convention on Human Rights, and

a violation of Article 2 – procedural aspect (right to life: obligation to conduct an effective investigation).

The case concerned the death of the applicants' son and brother, A. Nazaryan, whilst he was in the army, and the subsequent investigation.

The Court found in particular that, due to the absence of any system of psychological assistance in the military forces, no such support had been available to A. Nazaryan despite the apparent risk that he might commit suicide. Furthermore, the authorities had failed to take appropriate and effective measures to prevent that known risk from materialising. Therefore, the State had failed to comply with its obligation to take appropriate measures to safeguard his life during his military service. The Court also considered that the investigation conducted in the case had not been sufficiently thorough and had failed to protect the applicants' interests and to enable them to properly exercise their rights.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicants, Hasmik Hovhannisyan and Tsovinar Nazaryan, are Armenian nationals who were born in 1949 and 1976 and live in Yerevan and Brussels respectively.

Their son and brother, A. Nazaryan, was recruited into the army as a lieutenant in 2009 after performing compulsory military service from 2001 to 2003. On 27 July 2010 he was found dead in his military unit, with a gunshot wound to his mouth.

There were a number of discrepancies in the ensuing criminal investigation, including with regard to the place where his body had been discovered; the date on the record of the examination of the scene of the incident; the cartridge number submitted for a combined ballistic, trace and fingerprint examination; the findings of the forensic expert concerning the injuries discovered during the autopsy; and the number of photographs attached to the forensic medical expert's conclusion.

A posthumous forensic psychological and psychiatric examination found that A. Nazaryan had been subjected to continuous humiliation by fellow servicemen, including higher-ranking officers and conscripts serving under him. The criminal case shed light on a chain of humiliation and violence instigated by the commander of the first battalion of the military unit, Captain H.M. The report

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

concluded that A. Nazaryan had committed suicide due to humiliation, debasement, harassment and ill-treatment by officers H.M. and V.H. and conscripts under his command.

On 7 May 2013 the Regional Court convicted and sentenced Captain H.M. to ten years' imprisonment, Senior Lieutenant V.H. and conscripts A.H. and M.M. to four years' imprisonment and conscript H.K. to three years' imprisonment, finding that A. Nazaryan had committed suicide as a result of their treatment of him. It dismissed all the applications lodged by Ms Nazaryan in the course of the trial, including, among others, one to exclude from the evidence the pre-trial statements of witnesses taken whilst they were in disciplinary confinement. Subsequent appeals by Ms Nazaryan were unsuccessful.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life), 10 (freedom of expression) and 13 (right to an effective remedy) of the European Convention on Human Rights, the applicants complained of their relative's death and alleged that the investigation into it had been ineffective. They alleged that he had either been murdered by members of the armed forces, or that the State had failed in its obligation to prevent his superiors and subordinates from severely ill-treating and bullying him and had failed to prevent him from taking his own life, which had been a foreseeable risk in view of the manner in which they had treated him.

They alleged that, as his death had occurred whilst he was under sole control of the military authorities, the State was required to explain the circumstances surrounding his death. They also complained that the investigation into the death had not been objectively independent.

The applications were lodged with the European Court of Human Rights on 23 November 2011 and 3 April 2014.

The Court joined the applications and examined them in a single judgment.

Judgment was given by a Chamber of seven judges, composed as follows:

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,
 Tim **Eicke** (the United Kingdom),
 Yonko **Grozev** (Bulgaria),
 Armen **Harutyunyan** (Armenia),
 Pere **Pastor Vilanova** (Andorra),
 Jolien **Schukking** (the Netherlands),
 Ana Maria **Guerra Martins** (Portugal),

and also Ilse **Freiwirth**, *Deputy Section Registrar*.

Decision of the Court

Article 2

The Court noted that in the course of the criminal investigation there had been a number of serious inaccuracies in relation to the circumstances surrounding A. Nazaryan's death, all of which had been explained during the domestic proceedings and by the Government in their observations as having been the result of "technical" or "mechanical" errors. In view of these, the applicants could be forgiven for seriously questioning the official version and thinking that the investigation might be covering up a more sinister explanation, such as murder. Nevertheless, the material before the Court did not allow it to support "beyond reasonable doubt" the hypothesis that A. Nazaryan's life had been taken intentionally.

According to the Court's case-law, the State bears responsibility for the death of somebody driven to suicide by bullying and ill-treatment during military service. The Court has already found that contractual military servicemen are under the sole control of the State authorities whose duty it is to protect them and to carry out an effective official investigation into any fatalities, including suspected suicides. Investigations should be carried out by people independent of anyone implicated or likely to have been implicated in the events, and the victim's family should have access to it. The conclusions must be based on thorough, objective and impartial analysis of all relevant elements.

The Court noted that there was no evidence to indicate that A. Nazaryan had ever suffered from a mental disorder or had a history of suicide attempts or self-harm.

The investigation by the domestic authorities had concluded that A. Nazaryan's suicide had been directly linked to the ill-treatment and humiliation suffered at the hands of his fellow servicemen. In particular, according to the findings of the internal inquiry, Captain H.M. had taken to hitting him in the presence of others, "thereby affronting his dignity and creating an unhealthy moral environment in the military base", resulting in him being ill-treated by conscripts under his own command. Furthermore, it had been established during the criminal investigation that, it "had become evident" to the servicemen of the military base that A. Nazaryan might harm himself, which is why Captain H.M. had ordered that the firing pin be taken out of A. Nazaryan's assault rifle – an order which was not carried out. Captain H.M. and Senior Lieutenant V.H. had also feared the same after they had hit him causing his nose to bleed. The Court therefore concluded that A. Nazaryan's superiors and other servicemen knew, or should have known, that there was a real and immediate risk that he might commit suicide.

The Court noted that there was no system of psychological assessment and assistance in the military forces at the time. Hence, no such support had been available to A. Nazaryan despite signs that he was a suicide risk. Furthermore, no proper measures had been taken to avoid that risk from materialising. Therefore, the State had failed to comply with its obligation under Article 2 of the Convention to take appropriate measures which could have safeguarded A. Nazaryan's life during his military service.

The Court found, therefore, that there had been **a violation of Article 2 of the Convention under its substantive limb.**

The Court found that the investigation had been conducted diligently and there had been no unjustified delay. It observed that the Investigative Service of the Ministry of Defence had been a separate entity with investigators that were not part of the military structure. There was nothing to suggest that the investigator in charge had any ties or working relationship with the servicemen of A. Nazaryan's military unit. Nor was there anything to indicate that the conduct of the investigator had not been impartial. The Court therefore considered that the criminal investigation had been sufficiently independent.

However, the Court found that the investigation's conclusions had not been based on a thorough, objective and impartial analysis of all relevant elements. The various discrepancies pointed to gross shortcomings. For instance, according to the autopsy report, a number of non-ballistic injuries had been discovered on the body, but no adequate explanation had been provided for those injuries. Although it was eventually concluded that A. Nazaryan had committed suicide by shooting himself in the mouth with his assault rifle, the investigation had failed to explain why no bullet was missing from the magazine in his rifle.

The Court did not go on to examine all the issues raised by the applicants, including the presence of alcohol in A. Nazaryan's blood sample during the forensic medical examination, as the gross shortcomings already identified were sufficient for it to seriously question the adequacy of the investigation conducted by the domestic authorities.

Also, although the procedural obligation did not require applicants to have access to investigation

files, or copies of all documents during an ongoing inquiry, in the circumstances, the fact that A. Nazaryan's notebook, containing what was declared to have been a suicide note written by him, had been removed immediately after his death by Captain H.M., one of the accused and the main perpetrator of his ill-treatment, and had been returned only about two weeks later, rendered it legitimate for the applicants to question whether the torn piece of paper with the suicide note had indeed been written by A. Nazaryan and not by someone else. However, their request for copies of the pages from the notebook in order to seek the opinion of a forensic handwriting expert abroad had been refused. Moreover, the Regional Court had not allowed any of the requests or arguments submitted by the applicants during the trial; nor had the Court of Appeal. In those circumstances, the Court considered that the applicants' involvement in the procedure had not been adequately ensured.

The Court concluded that the investigation conducted in this case had not been sufficiently thorough and had failed to secure the applicants' involvement in it to a sufficient degree to protect their interests and to enable them to properly exercise their rights. There had therefore been **a violation of Article 2 of the Convention under its procedural limb**.

Article 10

The Court found that the case did not raise any issue that should be analysed under Article 10 alone.

Article 13

The Court did not find it necessary to examine whether there had also been a violation of Article 13 of the Convention as regards to whether the domestic authorities had carried out an effective investigation. The complaint raised by the applicants that it had been impossible to claim compensation for non-pecuniary damage, was rejected as inadmissible under Article 35 § 1 of the Convention for non-compliance with the six-month rule.

Just satisfaction (Article 41)

The Court held that Armenia was to pay the applicants jointly 20 000 euros (EUR) in respect of non-pecuniary damage and EUR 3 500 in respect of costs and expenses.

The judgment is available only in English.

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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.