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

FIFTH SECTION

DECISION

Application no. 69464/14
Artashes ARTASHESYAN
against Armenia

The European Court of Human Rights (Fifth Section), sitting on 6 February 2025 as a Committee composed of:

Andreas Zünd, *President*,
Armen Harutyunyan,
Mykola Gnatovskyy, *judges*,
and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 69464/14) 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") on 8 October 2014 by an Armenian national, Mr Artashes Artashesyan ("the applicant"), who was born in 1962, lives in Vanadzor and was represented by Mr A. Zalyan, a lawyer practising in Vanadzor;

the decision to give notice of the complaint under Article 6 § 1 of the Convention concerning the alleged lack of access to a court to the Armenian Government ("the Government"), represented by their Agent, Mr G. Kostanyan, and subsequently by Mr Y. Kirakosyan, Representative of the Republic of Armenia on International Legal Matters, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged denial to the applicant of access to court to contest the termination of his employment as a customs officer. He complained under Article 6 § 1 of the Convention.

2. By an order of 30 June 2011 ("the order") the Head of the State Revenue Committee ("the SRC") terminated the applicant's employment on

the grounds of reducing the number of posts. Between August 2011 and February 2012 there were various written exchanges between the applicant and the SRC in relation to the former's applications seeking, *inter alia*, re-calculation of the termination pay and a copy of the relevant government decision concerning the reduction of the SRC's staff.

3. On 17 February 2012 the applicant submitted an administrative complaint against the order of 30 June 2011 asking the Head of the SRC to annul it for being unlawful. In response, the applicant was informed by a letter dated 27 February 2012 ("the letter") that the examination of his application was not within the SRC's competence.

4. On 27 March 2012 the applicant lodged a claim with the Administrative Court asking to annul the letter and to oblige the SRC to examine his complaint of 17 February 2012. That claim was granted by the Administrative Court in its judgment of 25 September 2012, which was upheld by the decision of the Administrative Court of Appeal of 24 January 2013 further to an appeal by the SRC.

5. The SRC lodged an appeal on points of law requesting to refuse the applicant's claim. It argued that, when terminating the applicant's employment, it had acted as an employer and not as a public body. The applicant's claim concerned an employment dispute and was therefore to be examined by the courts of general jurisdiction.

6. The Court of Cassation granted the SRC leave to appeal and by its precedential decision of 4 July 2013 partially granted the SRC's claim. In particular, the Court of Cassation quashed the decision of the Administrative Court of Appeal of 24 January 2013 (see paragraph 4 above) and terminated the proceedings. It noted that the reason for granting the SRC leave for appeal had been the need to ensure the uniform application of administrative and civil law as regards public service and to ensure uniform practice concerning the courts' jurisdiction to examine disputes relating to public service. The Court of Cassation stated that issues relating to the activity of a public servant, which did not stem from his or her public status, were by their nature employment matters and should be governed by the Labour Code and the relevant legislation concerning public service. As regards the issue of jurisdiction, it noted that not all disputes concerning public service would fall within the competence of administrative courts, and that the relevant court should examine the nature of the dispute when deciding on the matter. In particular, disputes which by their nature were employment disputes, would fall within the jurisdiction of courts of general jurisdiction. As regards the applicant's case, the Court of Cassation found that his claim concerned an ordinary employment dispute, which fell to be examined by the courts of general jurisdiction.

7. On 31 July 2013 the applicant lodged a civil claim with the Kentron and Nork-Marash District Court of Yerevan ("the District Court") contesting the order and seeking compensation for lost income until reinstatement in his

post. He argued, *inter alia*, that until the precedential decision of the Court of Cassation dated 4 July 2013, disputes concerning public service were equally examined by administrative courts. He referred to administrative case no. 6/0001/05/12 concerning the termination of a public servant's employment on the grounds of staff cutbacks, which had been examined earlier the same year by the administrative courts at three levels of jurisdiction.

8. On 3 September 2013 the Ministry of Finance (a third party in the proceedings) requested that the District Court apply statutory limitation to the applicant's claim in accordance with Article 265 § 1 of the Labour Code (setting out a one-month time-limit for filing a court claim in an employment dispute starting from the moment an employee received the relevant individual decision).

9. By its judgment of 17 October 2013 the District Court dismissed the applicant's claim as time-barred.

10. Further to the applicant's appeal, the Civil Court of Appeal upheld the District Court's judgment. In response to the applicant's argument that there had been uncertainty concerning jurisdictional rules and he had lodged his civil claim within a period of one month from the date of the Court of Cassation's decision clarifying the matter (see paragraphs 6 and 7 above), the Civil Court of Appeal stated the following. The applicant, who considered that there had been a breach of his employment rights and had been aware thereof in July 2011, had applied to the District Court on 31 July 2013 (see paragraph 7 above). The claim seeking the annulment of the letter could not be considered to have constituted a claim seeking restoration of allegedly breached employment rights. The applicant was dismissed from his post on 30 June 2011, and he should have sought a judicial review of the order prior to 1 August 2011. Even assuming that the claim lodged before the Administrative Court could be considered as a claim seeking restoration of the applicant's allegedly breached employment rights, he had applied to court only on 27 March 2012 (see paragraph 4 above), that is to say more than eight months after his dismissal.

11. By a decision of 9 April 2014 the Court of Cassation refused the applicant leave for appeal.

THE COURT'S ASSESSMENT

12. Relying on Article 6 § 1 of the Convention, the applicant alleged that there had been a breach of his right of access to a court on account of his inability to obtain a judicial review of the order of 30 June 2011 to terminate his employment. He argued that in a situation where there had been uncertainty at the material time as to whether employment disputes involving public servants were to be examined by administrative courts or courts of general jurisdiction, the application of statutory limitation periods to his

subsequent civil claim constituted an unjustifiable restriction of his right of access to a court. The applicant submitted examples of domestic cases involving termination of employment in public service, which had been previously examined by the administrative courts.

13. The Government argued that the applicant's complaint had been introduced out of time as he had failed to apply to the Court within a period of six months starting from 4 July 2013, the date of the Court of Cassation's decision, if he had considered that his claim should have been examined by the administrative courts. As to the merits of the complaint, the Government submitted that the applicant had failed to contest the order (see paragraph 2 above) in due time. Instead, he had engaged in back-and-forth exchanges with the SRC in relation to the calculation of the termination pay and contested the order for the first time on 17 February 2012 by means of an administrative complaint. He then applied to the administrative courts seeking to oblige the SRC to deliver a decision on that complaint. Thus, even if the administrative courts granted that claim, that would have meant that the SRC would have been under an obligation to examine his complaint in an administrative procedure as opposed to the order itself being annulled. The applicant had sought a judicial review of the order more than two years after its delivery, and the courts of general jurisdiction were to apply statutory limitation periods in the event where one of the parties had submitted a request to that end.

14. The Court considers that it is not necessary to rule on the Government's objection concerning the applicant's observance of the six-month time-limit, as the application is in any event inadmissible for the following reasons.

15. The general principles concerning the right of access to a court have been summarised in *Zubac v. Croatia* ([GC], no. 40160/12, §§ 76-79, 5 April 2018). As regards specifically statutory limitation periods, the Court has held that they are aimed at ensuring the proper administration of justice and compliance, in particular, with the principle of legal certainty (see *Kamenova v. Bulgaria*, no. 62784/09, § 47, 12 July 2018). Litigants should expect those rules to be applied (see, *mutatis mutandis*, *Miragall Escolano and Others v. Spain*, nos. 38366/97 and 9 others, § 33, ECHR 2000-I).

16. It is in the first place for the national courts to interpret and apply domestic law. This applies in particular to the interpretation by courts of rules of a procedural nature. The Court's role is confined to ascertaining whether the effects of such an interpretation are compatible with the Convention (see, for instance, *Klauz v. Croatia*, no. 28963/10, § 86, 18 July 2013).

17. The applicant's employment in the SRC was terminated as of 30 June 2011 on the basis of the order, which was delivered on the same day (see paragraph 2 above). The applicant initially attempted to contest the order via an administrative complaint to the Head of the SRC and, once the SRC refused to examine his complaint, he submitted a claim before the

Administrative Court seeking to oblige the SRC to examine his complaint and take a formal decision (see paragraphs 3 and 4 above). Within the framework of the latter set of proceedings the Court of Cassation eventually found that the dispute concerning the termination of the applicant's employment in the SRC was subject to examination by the courts of general jurisdiction and terminated the proceedings for lack of jurisdiction (see paragraph 6 above).

18. Thereafter, the applicant applied to the courts of general jurisdiction on 31 July 2013 to contest the order itself, that is more than two years after its delivery (see paragraphs 2 and 7 above) and in a situation where there was a general statutory time-limit of one month for filing court claims in employment disputes (Article 265 § 1 of the Labour Code – see paragraph 8 above), which was eventually applied by the civil courts to refuse his claim as time-barred (see paragraphs 9 and 10 above).

19. The applicant's main contention was that his civil claim should have been admitted for examination because of the uncertainty of jurisdictional rules at the material time. The Court notes, however, that while there indeed appears to have been an uncertainty at the material time concerning legal and jurisdictional rules to be applied to disputes involving public service – a domestic legal reality given which the Court of Cassation saw the need to adopt a precedential decision to clarify the matters (see paragraph 6 above), there is nothing to suggest that there had been any uncertainty with regard to the time-limits applicable to claims contesting termination of public service. In fact, all the domestic case-law examples submitted by the applicant (see paragraph 12 above) concern cases where the administrative courts had examined claims brought by public servants within a one-month period after the relevant decisions to terminate their employment had been delivered.

20. Indeed, as noted by the Civil Court of Appeal, the applicant had failed to request a judicial review of the order itself within one month from its delivery and, even assuming that his claim before the administrative courts could be considered to have constituted a legal action aimed at the restoration of his allegedly breached employment rights, he had still lodged it only on 27 March 2012 that is again in breach of the statutory time-limit to contest the order (see paragraph 10 above).

21. In these circumstances, the Court sees no basis to conclude that the domestic civil courts' decision to reject the applicant's claim on account of the expiry of the statutory time-limit was disproportionate.

22. It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 March 2025.

Martina Keller Deputy Registrar	Andreas Zünd President