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

FIFTH SECTION

DECISION

Application no. 24425/15
Marzpetuni AVUSHYAN
against Armenia
(see appended table)

The European Court of Human Rights (Fifth Section), sitting on 4 September 2025 as a Committee composed of:

Andreas Zünd, *President*,
Diana Sârcu,
Mykola Gnatovskyy, *judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having regard to the above application lodged on 11 May 2015,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr Hayrapetyan, a lawyer practising in Yerevan.

The applicant's complaint under Article 6 §§ 1 and 3 (d) of the Convention concerning the unfair trial in view of the restrictions on the right to examine a prosecution witness were communicated to the Armenian Government ("the Government"). Another complaint based on the same facts was also communicated under Article 6 § 1 of the Convention.

THE LAW

A. *Locus standi* of the applicant's son

The Court notes that the applicant died on 30 May 2022 while the case was pending before the Court. The applicant's son, Mr Suren Avushyan, has asked to pursue the application in his late father's stead. As the request is in line

with its case-law, the Court sees no reason to refuse it (see *Garbuz v. Ukraine*, no. 72681/10, §§ 28-29, 19 February 2019, and *Bondar v. Ukraine*, no. 18895/08, § 43, 16 April 2019). However, reference will still be made to the applicant throughout the present text.

B. Complaint under Article 6 §§ 1 and 3 (d) of the Convention (unfair trial in view of restrictions on the right to examine witnesses)

In the present application, having examined all the material before it, the Court considers that for the reasons stated below, the applicant's complaint about the courts' having held the criminal trial against him in the absence of a prosecution witness is inadmissible.

In particular, the Court notes that in the light of the principles established in the case-law under Article 6 §§ 1 and 3 (d) of the Convention (see notably *Al-Khawaja and Tahery v. the United Kingdom* [GC], nos. 26766/05 and 22228/06, §§ 118-47, ECHR 2011; *Schatschaschwili v. Germany* [GC], no. 9154/10, §§ 100-31, ECHR 2015; and *Strassenmeyer v. Germany*, no. 57818/18, §§ 70-71, 2 May 2023), the applicant's defence rights were not restricted to an extent incompatible with the guarantees provided by Article 6 of the Convention (for further details see appended table).

The applicant also raised another complaint under Article 6 § 1 in relation to admission of retracted statements into evidence. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto (compare *Makeyan and Others v. Armenia*, no. 46435/09, §§ 41-48, 5 December 2019).

In view of the above, the Court finds the applicant's criminal trial complied with overall fairness requirement.

It therefore follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 25 September 2025.

Viktoriya Maradudina Acting Deputy Registrar	Andreas Zünd President

APPENDIX

Application raising complaints under Article 6 §§ 1 and 3 (d) of the Convention (unfair trial in view of restrictions on the right to examine witnesses)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Final domestic decision Charges convicted of	Witness absent from trial (indicated by initials) Summary of the nature of the witness evidence	Reasons for absence	Steps taken to compensate for the witnesses' absence
24425/15 11/05/2015	**Marzpetuni AVUSHYAN** 1971 Died in 2022	Hayrapetyan Tigran Yerevan	Court of Cassation 12/12/2014 Aiding and abetting a burglary committed in a group and illegal possession of firearms	V.M. The witness testified that, as a taxi driver, he had driven the applicant and his two co-accused near the house where a burglary was committed, and had been asked to wait for them. The witness submitted that the applicant had returned in about 10-15 minutes after leaving the car, while his two co-accused had returned later.	distant region/other country	- the appeal court considered that the applicant's conviction would be secured even without the witness statement in question; - strong supporting evidence including, pre-trial statements of his two co-accused that the applicant had participated in the commission of the crime by, *inter alia,* providing masks and gloves; masks and gloves found in the applicant's possession; the protocol of the confrontation between the applicant and one of his co-accused during which the latter reiterated his earlier incriminatory statements against the applicant; protocols of investigative experiments where the applicant's co-accused described how they had committed the burglary; phone calls between the applicant and one of his co-accused several hours before the burglary, etc.; - the written statements by the absent witness were carefully examined and verified against other evidence; - opportunity afforded to the applicant to challenge the credibility of the witness's statement in court and to give his own version of the events

Heir(s) in application no. 24425/15

Decedent	Heir
Marzpetuni AVUSHYAN Died in 2022	**Suren AVUSHYAN** Born in 2009