

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

FIFTH SECTION

CASE OF ABRAHAMYAN v. ARMENIA

(Application no. 31326/17)

JUDGMENT

STRASBOURG

30 April 2026

This judgment is final but it may be subject to editorial revision.



In the case of Abrahamyan v. Armenia,

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

Andreas Zünd*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 31326/17) 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 15 April 2017 by two Armenian nationals, Ms Arusyak Abrahamyan and Mr Sargis Abrahamyan ("the applicants"), who were born in 1984 and 1975 respectively, live in Yerevan, and were represented by Mr Alumyan, a lawyer practising in Yerevan;

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

the parties' observations;

Having deliberated in private on 26 March 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the Court of Cassation's refusal to admit the applicants' appeals on points of law for examination on the grounds that they had failed to pay the correct amount of court fees, which raises an issue under Article 6 § 1 of the Convention concerning their right of access to a court.

2. On 19 May 2015 A.G., acting in a private capacity, brought an action in the Administrative Court against the State and the State Committee of the Real Estate Cadastre, seeking a declaration that a decision concerning the registration of real estate from 1984 was unlawful and, as a result, to have subsequent transactions, registrations and inheritance certificates issued to the applicants set aside, and her ownership of the real estate recognised (in total 11 non-pecuniary claims). The applicants, who are brother and sister, were involved as third parties in those proceedings.

3. By a judgment of 30 October 2015, the Administrative Court declared the 1984 decision unlawful and, as an automatic consequence of granting A.G.'s main claim, also granted A.G.'s secondary claims to have all the subsequent transactions, registrations and inheritance certificates issued to the applicants set aside. It also recognised A.G.'s ownership of the real estate.

At the same time, it granted A.G. compensation for the court fees incurred in the amount of 4,000 Armenian drams (AMD – approximately 10 euros (EUR)) – that is, the statutory rate for lodging a non-pecuniary claim with the Administrative Court in accordance with the State Fees Act.

4. By a decision of 7 July 2016, the Administrative Court of Appeal upheld the Administrative Court's judgment on appeal. It ordered the applicants to pay court fees in the amount of AMD 10,000 (approximately EUR 25) – that is, the statutory rate for lodging an appeal with the Administrative Court of Appeal in a case concerning a non-pecuniary claim.

5. On 15 August 2016 the applicants each lodged an appeal on points of law with the Court of Cassation and requested a deferral of the court fees in respect of their appeals.

6. On 14 September 2016 the Court of Cassation returned their appeals on the grounds that they had failed to submit evidence of their financial situation. It gave the applicants five days to rectify the errors and to resubmit their appeals.

7. On 3 October 2016 the applicants resubmitted their appeals after paying AMD 20,000 (approximately EUR 50) – that is, the statutory rate for lodging an appeal on points of law in a case concerning a non-pecuniary claim.

8. On 12 October 2016 the Court of Cassation declared the appeals inadmissible on procedural grounds. It found that the applicants had only partly rectified the errors, in so far as they had paid court fees in respect of only one claim whereas the applicants' case comprised 11 claims. It did not set a new time-limit for resubmitting the appeals; the court considered that doing so would be contrary to the principle of legal certainty. The applicants were notified of the relevant decisions on 19 October 2016. By that time, the original one-month statutory time-limit for lodging an appeal on points of law had already expired.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. The applicants complained under Article 6 § 1 of the Convention that the Court of Cassation's decision to leave their appeals without examination had breached their right of access to that court because there was no clear legal basis for the requirement to pay 11 times the amount they had already paid and it was therefore unforeseeable.

10. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

11. The relevant general principles applicable to the examination of restrictions on access to superior courts, including the foreseeability criterion, were summarised by the Court in *Zubac v. Croatia* ([GC], no. 40160/12,

§§ 78-88, 5 April 2018) and have recently been reiterated in *Vachik Karapetyan and Others v. Armenia* (no. 15736/16, §§ 86-87, 15 May 2025).

12. The Court observes that, pursuant to Article 57 of the Code of Administrative Procedure, the amount of court fees was governed by the State Fees Act. Under Section 9 (9) (b) of the State Fees Act (as in force at the material time), the amount of court fees due for lodging appeals on points of law with the Court of Cassation in cases concerning a non-pecuniary claim was AMD 20,000. There was no clear requirement, on the basis of the wording of that provision, for the applicants to pay 11 times that amount for lodging a single appeal on points of law merely because the case comprised 11 non-pecuniary claims. Rather, the amount of the court fees was linked to the nature of the case, and the term "non-pecuniary claim" apparently served to define that nature, rather than requiring the court fees to be multiplied by the number of claims in the case. Nor can such a clear requirement be understood from any other statutory provision cited by either the Court of Cassation or the Government.

13. The Court is not persuaded by the Government's reference to Section 32 (7) of the State Fees Act. Under that provision, in cases where several actions were taken or several services were provided simultaneously, the amount of court fees was to be calculated separately in respect of each action or service. In the present case, however, each applicant performed only one such procedural action – that is, the lodging of a single appeal on points of law, and the Court of Cassation was accordingly called upon to examine only one appeal per applicant. The mere fact that the case involved multiple non-pecuniary claims did not equate to the lodging of 11 appeals, nor did it imply that the Court of Cassation had provided 11 services. There was therefore no clear statutory basis in that provision requiring the applicants to pay 11 times the amount that they had already paid.

14. As regards the domestic judicial practice, the Court reiterates that a coherent domestic practice and a consistent application of that practice will normally satisfy the foreseeability criterion in relation to a restriction on access to the superior court (see *Zubac*, cited above, § 88). The Government provided examples of the Court of Cassation's procedural decisions in which the rules on court fees were applied in a manner essentially similar to the approach taken in the applicants' case. However, the vast majority of those decisions were given after 3 October 2016 – that is, the date on which the applicants resubmitted their appeals on points of law – and cannot therefore be taken into account in determining whether the restriction had been foreseeable at the material time.

15. The Court notes that only three procedural decisions relied on by the Government, dated 3 February, 27 April, and 18 May 2016 respectively, predated the resubmission of the applicants' appeals. Although those procedural decisions were published on the publicly accessible online judicial database, Datalex, they were not, unlike decisions on the merits, subject to

compulsory publication on the judiciary's official website or in the Official Journal under Article 68 §§ 1 and 2 of the former Judicial Code as in force at the material time. Moreover, they do not appear to have been published in the Armenian Legal Information System (www.arlis.am) and there is no indication that those decisions attracted particular publicity or became well-known within the legal community in order to satisfy the requirements of *Zubac* (cited above, § 88).

16. The Court further notes that, prior to the decisions in the applicants' case, the wording of the relevant provision of the State Fees Act setting the amount of court fees had remained essentially unchanged (with only minor variations) since 1998 – that is, before the entry into force of the Code of Administrative Procedure on 7 January 2014 and even before the entry into force of the former Code of Administrative Procedure on 1 January 2008. The fact that the earliest example of relevant case-law provided by the Government is a decision of 3 February 2016 – that is, eight months before the applicants resubmitted their appeals – suggests that the domestic judicial practice on the matter was merely emerging.

17. Moreover, the Court has previously held that it normally takes six months for a development in the case-law to attract public attention and to acquire a sufficient degree of legal certainty at the domestic level (see *Yavuz Selim Güler v. Turkey,* no. 76476/12, § 26, 15 December 2015). Of the case-law examples provided by the Government in the present case, only one decision, dated 3 February 2016, had been given more than six months before the applicants resubmitted their appeals on points of law. That decision did not refer to any earlier case-law on which it relied. A single decision is not sufficient to demonstrate the existence of a coherent domestic judicial practice and a consistent application of that practice capable of satisfying the foreseeability criterion from the applicants' perspective, especially since there is nothing to indicate that the decision had attracted particular publicity.

18. In the light of the foregoing, the Court concludes there was no clear statutory basis for the calculation of the court fees applied by the Court of Cassation in the applicants' case. Nor could the applicants have reasonably foreseen such a calculation based on the domestic judicial practice.

19. The Court's role is not to resolve disputes over the interpretation of domestic law regulating access to a court but rather to ascertain whether the effects of such an interpretation are compatible with the Convention (see, *Zubac*, cited above, § 81). The Court's above-mentioned observations serve to demonstrate that, in the absence of coherent and consistently applied domestic judicial practice, the applicants cannot be criticised for being guided by the plain meaning of the text of the applicable provisions. This is all the more so since the Administrative Court and the Administrative Court of Appeal – despite applying legal provisions formulated in essentially the same way – did not calculate the court fees by multiplying the applicable rate by the number of non-pecuniary claims involved in the case.

20. Moreover, when the Court of Cassation returned the applicants' appeals and gave them five days to resubmit them (see paragraph 6 above), it referred to Section 9 (9) (b) of the State Fees Act (see paragraph 12 above) but did not specify the amount of court fees to be paid or cite any domestic case-law capable of providing sufficient clarity for the calculation of the court fees. Accordingly, the applicants cannot be criticised for paying the court fees according to their reasonable interpretation of the statutory provision.

21. Lastly, the Court notes that when the Court of Cassation declared the applicants' appeals inadmissible, it did not set a new time-limit for resubmitting the appeals (see paragraph 8 above). Consequently, the applicants had no opportunity to comply with a requirement that was brought to their attention for the first time in that decision, thereby depriving them of an effective right of access to that court. The Court therefore emphasises the consequence of the lack of clarity in the Court of Cassation's decisions returning the appeals (see paragraph 20 above), in so far as the applicants had only one opportunity in practice to resubmit their appeals.

22. Taking into account the combination of those circumstances, the Court considers that the decisions declaring the applicants' appeals inadmissible were disproportionate and impaired the very essence of the applicants' right of access to a court.

23. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

24. The applicants also complained under Article 1 of Protocol No 1 to the Convention that the violation of their right to a fair trial had also led to the breach of their property rights.

25. As this complaint is directly connected with the one examined under Article 6 § 1 of the Convention and having regard to the fact that the Court cannot speculate as to what the outcome of the case would have been if the applicants had had effective access to a court, it does not consider it necessary to examine this complaint separately (see *Yanakiev v. Bulgaria*, no. 40476/98, § 82, 10 August 2006, and *Adilovska v. North Macedonia*, no. 42895/14, § 38, 23 January 2020).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. The applicants each claimed 2,500 euros (EUR) in respect of non-pecuniary damage. In addition, Ms A. Abrahamyan claimed EUR 2,881 in respect of costs and expenses incurred before the Court.

27. The Government contested those claims.

28. Ruling on an equitable basis, the Court considers it reasonable to award the applicants jointly EUR 3,600 in respect of non-pecuniary damage, plus any tax that may be chargeable.

29. Having regard to the documents in its possession, the Court considers it reasonable to award Ms A. Abrahamyan EUR 1,551 for costs and expenses incurred in the proceedings before the Court, plus any tax that may be chargeable to her.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 1 of the Convention concerning the right of access to a court admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 1 of Protocol No. 1 to the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicants, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,600 (three thousand six hundred euros) to the applicants jointly, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,551 (one thousand five hundred fifty-one euros) to Ms A. Abrahamyan, plus any tax that may be chargeable to her, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 30 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President