

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

FIFTH SECTION

CASE OF AVETYAN v. ARMENIA

(Application no. 11997/25)

JUDGMENT

STRASBOURG

1 October 2026

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



In the case of Avetyan v. Armenia,

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

Gilberto Felici*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 11997/25) 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 19 May 2025 by an American national, Mr Smbat Avetyan ("the applicant"), who was born in 1982, and was represented by Ms A. Dashyan and Mr A. Ghazaryan, lawyers practising in Yerevan;

the decision to give notice of the application to the Armenian Government ("the Government"), represented by their Agent, Mr K. Andreasyan, Representative of the Republic of Armenia on International Legal Matters;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

Having deliberated in private on 10 September 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the State's alleged failure to undertake measures to fulfil its positive obligations under Article 8 of the Convention to enforce the applicant's parental rights and reunite him with his daughter, as well as the alleged lack of effective domestic remedies in that regard.

2. The applicant is the father of a seven-year-old girl, A.A., whose mother is Y.H. The family is ethnically Armenian but resided in the United States until the parents divorced in 2021.

3. On 13 March 2023 the Superior Court of California, County of Los Angeles, granted full physical custody of A.A. to the applicant.

4. On an unspecified date the child was taken to Armenia, where she was allegedly unlawfully retained by Y.H.

5. In October 2024 Y.H. left the child in the care of her mother, M.M., and father, Y.Hov., and travelled to the United States.

6. On 12 October 2024 the applicant travelled to Armenia in an effort to assume custody of the child. However, the child's maternal grandparents did not permit him to take the child into his care.

7. On 12 February 2025 the applicant lodged a civil claim with the Yerevan Court of General Jurisdiction ("the Yerevan Court"), seeking an

order requiring M.M. and Y.Hov. to return the child. He also requested a provisional measure ordering the child's return pending the outcome of the proceedings. On 21 February 2025 the Yerevan Court refused the request for a provisional measure. On the same date, however, it delivered, of its own motion, a separate decision establishing a visiting schedule, allowing the applicant to see his daughter three times a week for three hours on each occasion, without the presence of the grandparents.

8. On 24 February 2025 the Compulsory Enforcement Service ("the CES") initiated enforcement proceedings in respect of the Yerevan Court's order establishing the visiting schedule. On 5, 7 and 21 March 2025 the bailiff made telephone calls to M.M. and Y.Hov. in an attempt to arrange visits. However, no visits took place, as M.M. and Y.Hov. requested postponements, proposed that the visits take place in their apartment, or were absent from their apartment. On 21, 23, 26 and 28 March 2025 the bailiff, together with the applicant and a representative of the local child protection authorities, visited the grandparents' residence at the times specified in the court order, but they were absent.

9. Meanwhile, following an appeal by the applicant, on 31 March 2025 the Civil Court of Appeal delivered a provisional measure ordering Y.Hov. and M.M. to return the child to the applicant pending the outcome of the proceedings. It held that as long as the child was not in the actual care of her mother, she was to be in the care of her father, who enjoyed a preferential right to raise his child *vis-à-vis* third parties, including the child's grandparents.

10. On 1 April 2025 the CES initiated new enforcement proceedings and a bailiff, together with the applicant, visited the grandparents' residence to enforce the order to return the child to the applicant. However, M.M. and the child were not there, and Y.Hov. claimed he did not know their whereabouts. On the same date the bailiff formally decided to initiate search measures and subsequently requested that the police carry out a search.

11. On 4 April 2025 the police informed the CES that a search had been initiated.

12. In April 2025 the applicant submitted several criminal complaints, alleging that the grandparents' non-compliance with the court order of 31 March 2025 had constituted a criminal offence under Article 507 § 1 of the Criminal Code (failure to execute or obstruction of the execution of a judicial act). The investigator refused to initiate criminal proceedings, concluding that the actions described by the applicant had not constituted a criminal offence.

13. On 14 May 2025 Y.H. returned to Armenia and, on 23 May 2025, moved into her parents' apartment. The following day she was interviewed by the police.

14. On 27 May 2025 the police sent a letter to the CES, revealing that M.M. and the child had been found and that they were at the grandparents' apartment.

15. On 9 October 2025 the bailiff decided to terminate the search measures.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

16. The applicant complained that the State had failed to fulfil its positive obligations under Article 8 of the Convention to enforce his parental rights and ensure that he was reunited with his daughter.

17. The Government argued that the application should be declared inadmissible for non-exhaustion of domestic remedies, as the applicant had not appealed against the investigator's decisions refusing to institute criminal proceedings (see paragraph 12 above). The Court notes, however, that that alleged omission could not have absolved the authorities from their obligations in the matter of enforcement – including, where appropriate, through the imposition of sanctions – since it is they who exercised public authority (see *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 111, ECHR 2000-I; *Hansen v. Turkey*, no. 36141/97, § 107, 23 September 2003; and *Tzioumaka v. Greece*, no. 31022/20, § 86, 9 April 2024). This objection must therefore be dismissed.

18. The Government further argued that the application should be declared inadmissible as premature, on the grounds that civil proceedings concerning the complaints raised before the Court were still pending. The Court observes, however, that in so far as the applicant's complaint concerns the alleged failure to enforce binding provisional measures already adopted in respect of his parental rights, it cannot be regarded as premature solely because the proceedings on the merits are still pending (see *Fourkiotis v. Greece*, no. 74758/11, §§ 16 and 45-47, 16 June 2016).

19. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

20. The relevant general principles concerning the State's positive obligation to protect the relationship between parents and their children have been set out in a number of cases (see, for example, *Malec v. Poland*, no. 28623/12, §§ 66-67, 74 and 78, 28 June 2016; *E.K. v. Latvia*, no. 25942/20, §§ 72-77, 13 April 2023; and *Tzioumaka*, cited above, §§ 79-80).

21. In the present case, the CES was initially required to enforce the Yerevan Court's order of 21 February 2025, which had established the

visiting schedule. While several attempts were made to enforce that order, they were all unsuccessful (see paragraph 8 above).

22. Subsequently, on 31 March 2025 the Civil Court of Appeal delivered a provisional measure ordering Y.Hov. and M.M. to return the child to the applicant. The authorities were therefore under a positive obligation to take adequate, swift and effective measures on the basis of that decision to enforce the applicant's parental rights. Since the child's whereabouts were unknown (see paragraph 10 above), this required, firstly, that they take all reasonable steps to locate her (see *Hromadka and Hromadkova v. Russia*, no. 22909/10, §§ 165-69, 11 December 2014).

23. On 1 April 2025 the CES formally initiated search measures for M.M. and requested the police to carry out a search. Accordingly, the police formally initiated a search. However, the Government have not demonstrated that, following the formal initiation of those search measures, any concrete action was taken to locate the child, such as interviews with Y.Hov., enquiries with relatives, neighbours or relevant institutions, or the possible tracing of M.M.'s whereabouts through her mobile phone location data. The Court is especially concerned that in a situation where the child's whereabouts were unknown – a particularly serious matter – the Government have not been able to provide any evidence whatsoever regarding concrete measures taken beyond the formal initiation of a search.

24. Furthermore, no sanctions were imposed in response to the lack of cooperation on the part of the child's maternal grandparents, who repeatedly failed to make the child available and did not disclose her whereabouts when the bailiff sought to enforce the court orders. The Court reiterates that it is up to the competent authorities to impose appropriate sanctions – even of their own motion – in the event of a lack of cooperation on the part of the persons with whom a child is living (see *Maire v. Portugal*, no. 48206/99, § 76, ECHR 2003-VII; *Sévère v. Austria*, no. 53661/15, § 98, 21 September 2017; and *Tzioumaka*, cited above, § 86).

25. It is true that by 27 May 2025 – that is, nearly two months after the search had been initiated – the child had been located at the grandparents' residence. However, the Government have not demonstrated that this was the result of concrete efforts on the part of the authorities, rather than merely the consequence of the mother's return to Armenia shortly beforehand (see paragraph 13 above).

26. Shortly after the mother's return to Armenia, the child was in her care. This rendered the Civil Court of Appeal's order no longer applicable, as it had been directed against the child's maternal grandparents and the court had specifically noted in its reasoning that the child was to be in the applicant's care as long as she was not in the actual care of her mother. The Court therefore cannot fault the domestic authorities for not pursuing the enforcement of that order thereafter. The Court cannot accept the applicant's argument that the domestic authorities have failed to secure his custody rights

on the basis of the decision of the Superior Court of California (see paragraph 3 above), because that decision has not yet been recognised in Armenia under Article 346 of the Code of Civil Procedure.

27. However, irrespective of the subsequent change in circumstances, the Court finds it problematic that the authorities did not promptly inform the applicant once his daughter had been located. The Government referred to the bailiff's decision of 9 October 2025 terminating the search measures (see paragraph 15 above) and a letter dated 10 October 2025 addressed to the applicant as evidence that he had been informed by the authorities that his daughter had been located. However, that decision was issued and the accompanying letter was prepared after the Government had been given notice of the present application and nearly four and a half months after the child had been located. The Government further argued that the applicant's observations of 16 December 2025, which included documents concerning the child's whereabouts, indicated that he had been informed of his daughter's whereabouts at an earlier stage. However, the applicant has shown that those documents were submitted to the Yerevan Court by M.M. on 8 October 2025, thus demonstrating that he had obtained them after a delay of nearly four and a half months. Such a delay in the authorities' informing the applicant that his daughter had been located could have given rise to feelings of uncertainty and anxiety in the applicant and adversely affected his contact with his daughter. The Court finds no justification for such a delay, especially considering that the passage of time can have irremediable consequences for relations between a parent and a child.

28. In those circumstances, the absence of information about any concrete measures taken to swiftly locate the child with a view to enforcing the applicant's parental rights, coupled with the authorities' failure to inform the applicant promptly once she had been found, shows that the national authorities failed to take all the measures that could reasonably have been expected of them to enable the applicant to reunite with his daughter and preserve their relationship. That failure discloses a breach of the State's positive obligation to protect the relationship between the applicant and his daughter.

29. Accordingly, there has been a violation of Article 8 of the Convention.

II. ALLEGED LACK OF EFFECTIVE DOMESTIC REMEDIES

30. The applicant also complained that he had had no effective domestic remedy at his disposal for his complaint under Article 8 of the Convention. This complaint could fall to be examined under Article 13 of the Convention. However, having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal question raised by the case and that there is no need to examine the complaint concerning the alleged lack of effective domestic remedies (see *Centre for*

Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. The applicant claimed 12,000 euros (EUR) in respect of non-pecuniary damage.

32. The Government contested that claim.

33. Deciding on an equitable basis, the Court awards the applicant EUR 4,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

34. The applicant did not claim any costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the alleged violation of Article 8 of the Convention admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there is no need to examine the admissibility and merits of the complaint concerning the alleged lack of an effective domestic remedy;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State, at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Gilberto Felici President