

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

FIFTH SECTION

CASE OF HARUTYUNYAN v. ARMENIA

(Application no. 278/15)

JUDGMENT

STRASBOURG

28 August 2025

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



In the case of Harutyunyan v. Armenia,

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

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

Having deliberated in private on 3 July 2025,

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

PROCEDURE

1. The case originated in an application against Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 1 December 2014.

2. The applicant was represented by Mr S. Jaghinyan, a lawyer practising in Yerevan.

3. The application was communicated to the Armenian Government ("the Government").

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of unfair trial in the criminal proceedings against him, in particular because of the absence of an opportunity to examine in court the witness, whose testimony played a significant role in securing the applicant's conviction.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (D) OF THE CONVENTION

6. The applicant complained principally of unfair trial in the criminal proceedings against him, in particular because of the absence of an opportunity to examine in court the witness who had testified against him. He relied on Article 6 §§ 1 and 3 (d) of the Convention.

7. The general principles to be applied in cases where a prosecution witness did not attend the trial and his statements previously made by him were admitted as evidence are well-established in the Court's case law (see *Schatschaschwili v. Germany* [GC], no. 9154/10, §§ 100-31, ECHR 2015). In *Schatschaschwili*, the Court found a violation on account of the authorities' failure to provide the applicant with an opportunity to have the two key

prosecution witnesses examined at any stage of the proceedings (ibid., §§ 161-65).

8. Turning to the circumstances of the present case and having examined all the material submitted to it, including the parties' submissions, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of this complaint. It considers that the fact that the applicant was not provided with an opportunity to cross-examine that witness weighs heavily in the balance in the examination of the overall fairness of the criminal proceedings against him. The Court also takes into account that there is nothing in the materials in its possession to suggest that there was any effort on the part of the national judicial authorities to make use of any counterbalancing measures to compensate for the difficulties experienced by the applicant on account of the admission of the witness's untested statements as evidence.

9. The complaint is therefore admissible and discloses a breach of Article 6 §§ 1 and 3 (d) of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. Regard being had to the documents in its possession and to its case-law (see, in particular, *Avetisyan v. Armenia,* no. 13479/11, §§ 73-74, 10 November 2016), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 6 §§ 1 and 3 (d) of the Convention on account of the absence of an opportunity to examine in court the witness, whose testimony played a significant role in securing the applicant's conviction;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table, 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.

Done in English, and notified in writing on 28 August 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Andreas Zünd
Acting Deputy Registrar	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	Amount awarded for non-pecuniary damage per applicant[1]	Amount awarded for costs and expenses per application (in euros)[2]
278/15 01/12/2014	**Saribek HARUTYUNYAN** 1979	Jaghinyan Samvel Yerevan	Court of Cassation 31/05/2014 Causing serious bodily injury resulting in death	Z.M. During the investigation the witness testified that he had seen the applicant assaulting the victim, who later died as a result of serious bodily injury. Z.M. was the only eyewitness who claimed to have seen the applicant punching the victim at the crime scene. There was no other evidence directly proving the assault, and the courts heavily relied on the statements of that witness to prove the version of the assault by the applicant. However, Z.M.'s brother stated in the trial court that Z.M. had told him he had lied to the police about the applicant. Other evidence used by the trial court was only circumstantial.	death	Following the applicant's arrest, a pre-trial confrontation was held between the applicant and Z.M., during which the applicant decided not to make any statements or answer questions. At the same time, the investigator did not allow the applicant's lawyer to put questions to the witness on the grounds that the applicant was not formally charged and was participating in the confrontation as a witness, not as a suspect. Once charges were pressed against the applicant, he requested that a confrontation be held between him and Z.M., which was refused by the investigator, citing lack of contradiction between their statements.	2,400	500

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.

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	Amount awarded for non-pecuniary damage per applicant[1]	Amount awarded for costs and expenses per application (in euros)[2]
				Specifically, the trial court referred to the statements of other witnesses. However, they had only witnessed a brawl between the applicant and the victim earlier that evening at another location (other than the crime scene). Some of the witnesses also claimed that the applicant and the victim had left together after the brawl, although this was contradicted by other witness evidence that they had left separately. At any rate, none of them had witnessed who assaulted the victim but had later found him already injured at the crime scene. The courts also referred to the autopsy and forensic medical reports stating that the victim had died from injuries inflicted by blunt object (s) such as a fist or an iron bar.		At no point in the proceedings the applicant was allowed to confront Z.M.		