

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

FIFTH SECTION

CASE OF KHALOYAN v. ARMENIA

(Application no. 20544/14)

JUDGMENT

STRASBOURG

9 April 2026

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



In the case of Khaloyan 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. 20544/14) 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 25 February 2014 by an Armenian national, Mr Armen Khaloyan ("the applicant"), who was born in 1963 and was represented by Mr Revazyan, a lawyer practising in Yerevan;

the decision to give notice of the complaint under Article 6 §§ 1 and 3 (c) of the Convention concerning the lack of free legal assistance during the criminal proceedings against the applicant to the Armenian Government ("the Government"), represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia to the European Court of Human Rights, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 19 March 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged failure to provide the applicant with a defence lawyer in a timely manner in criminal proceedings, raising issues under Article 6 §§ 1 and 3 (c) of the Convention.

2. On 25 October 2012 the applicant was involved in an altercation in the lobby of the police headquarters with M.H., assistant to the Chief of Police. According to the applicant, M.H. scolded him and hit him with a metal pen, causing an injury to his lip. Following the incident, the applicant was forcibly taken to the Marash police station on suspicion of disturbance of the peace.

3. At the police station, he was searched and a knife was found in his possession. It appears that he was then allowed to leave.

4. On 31 October 2012 the applicant was formally charged with hooliganism and illegal possession of a bladed weapon.

5. On 2 November 2012 the applicant was arrested and taken to the Arabkir police station. According to him, H.K., the head of the Criminal Investigations Unit, slapped and verbally assaulted him.

6. On 3 November 2012 the applicant was charged with an additional count of hooliganism and assaulting a representative of the authorities, for

allegedly disrupting the work of the police, swearing at H.K. and punching him.

7. On the same date the Arabkir and Kanaker-Zeytun District Court of Yerevan ordered the applicant's detention for two months. At the hearing, the applicant stated that the investigating authority had not provided him with a lawyer, despite his request for one.

8. On 9 November 2012 the applicant requested free legal assistance. A public defender was appointed on the same date.

9. At his interview on 13 November 2012 the applicant refused to make any statement and asked to be represented by another lawyer from the Public Defender's Office.

10. On 14 November 2012 the applicant submitted a written request to the investigator seeking the appointment of a public defence lawyer and a forensic medical examination of his injuries.

11. On 20 December 2012 the criminal case was referred to the Kentron and Nork-Marash District Court of Yerevan ("the District Court") for trial.

12. On 28 December 2012 the District Court ordered the Chamber of Advocates to appoint a lawyer for the applicant, noting that his request of 14 November 2012 was justified in view of his unemployment and lack of means. It also exempted him from legal fees.

13. On 8 January 2013 the applicant was provided with a lawyer at the hearing before the District Court. It appears that the applicant subsequently declined that lawyer's services and chose to be represented by a privately retained lawyer.

14. On 16 April 2013 the District Court convicted the applicant and sentenced him to five years' imprisonment and a fine. In its judgment, the court referred to statements from M.H. and H.K.; two forensic medical reports concerning their injuries; testimony from police officers and police staff; the record relating to the applicant being forcibly taken to the Marash police station; the knife seized during the personal search of the applicant; the record of that personal search and statements of two attesting witnesses confirming it; and a forensic report concluding that the knife was classified as a bladed weapon.

As regards the alleged violation of the applicant's right to legal assistance, the District Court stated the following:

> "The lawyer's arguments that in the course of the investigation [the applicant's] rights, including his right to a lawyer, have been violated, are groundless since [the applicant] had been provided with a [lawyer], had dispensed with the latter's services of his own will and had chosen another lawyer ..."

15. The applicant lodged an appeal complaining, *inter alia*, of the breach of his right to legal assistance.

16. On 14 June 2013 the Criminal Court of Appeal upheld the District Court's judgment in its entirety.

17. The applicant lodged an appeal on points of law complaining, *inter alia*, that his right to legal assistance had been breached. On 24 August 2013 the Court of Cassation declared his appeal inadmissible for lack of merit. The decision was notified to him on 30 August 2013.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (c) OF THE CONVENTION

18. The applicant complained under Article 6 §§ 1 and 3 (c) of the Convention that he was not provided with a defence lawyer in a timely manner during the criminal proceedings against him.

19. The Government submitted that the applicant had failed to exhaust domestic remedies, as he had not challenged the admissibility of the evidence. The Court notes, however, that the applicant properly raised his complaint at every level of jurisdiction. He also challenged the authenticity and probative value of the statements against him. The Court also notes that the domestic courts had the power to determine the admissibility of evidence of their own motion (Articles 105 and 106 of the former Code of Criminal Procedure in force at the material time). In any event, the fairness of criminal proceedings is not limited to questions of admissibility of evidence but extends to the whole range of services associated with legal assistance (see paragraph 27 below).The Government's objection cannot therefore be accepted.

20. 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.

21. The general principles concerning the right of access to a lawyer have been summarised in *Beuze v. Belgium* ([GC], no. 71409/10, §§ 119-50, 9 November 2018).

22. The Court notes that the applicant was forcibly taken to the police station on 25 October 2012 on suspicion of disturbing the peace. From that moment, he was subject to a "criminal charge" within the autonomous meaning of Article 6. Accordingly, his right of access to a lawyer became applicable (see *Beuze*, cited above, §§ 119 and 124).

23. However, the applicant was neither provided with nor offered legal assistance, nor was he immediately informed of that right as required by the Convention (ibid., § 129). It is particularly noteworthy that the applicant was not given a lawyer even when he expressly complained about it in his detention hearing of 3 November 2012 (see paragraph 7 above).

24. The Court cannot accept the Government's assertion that the applicant had waived his right to a lawyer, as this assertion is merely based on disputed records that are signed only by the investigator, and not the applicant. These records cannot establish a valid waiver.

25. Although a public defender was appointed on 9 November 2012, the applicant soon declined her services and requested the appointment of a new lawyer. On 14 November 2012 he repeated that request in writing. It appears that once he had made such a request he was entitled to a new lawyer, a point confirmed by the District Court's decision of 28 December 2012 granting that request. Nevertheless, a new lawyer was not provided until 8 January 2013, with the result that the applicant remained unrepresented throughout the entire pre-trial investigation and for a further 19 days after the case had been referred to the District Court for trial (see paragraphs 8-13 above). The Court thus observes that the restriction on the right of access to a lawyer was particularly extensive in duration.

26. The Court further notes that there were no compelling reasons to justify the restriction on the applicant's right of access to a lawyer. In such circumstances, the onus is on the Government to demonstrate convincingly why, exceptionally and in the specific circumstances of the case, the overall fairness of the criminal proceedings was not irretrievably prejudiced (see *Beuze*, cited above, § 145).

27. The Court reiterates that the fairness of criminal proceedings requires that an accused be able to obtain the full range of services associated with legal assistance: discussion of the case, organisation of the defence, collection of exculpatory evidence, preparation for questioning, support for an accused in distress and verification of the conditions of detention (see *Dvorski v. Croatia* [GC], no. 25703/11, §§ 78 and 108, ECHR 2015, and *Beuze*, cited above, § 136). The applicant was deprived of these services to a significant extent, which seriously limited his ability to challenge the incriminating account of events or to secure evidence in his favour. That shortcoming was particularly significant in view of the fundamental contradictions between the applicant's account and the incriminating statements.

28. In particular, the applicant denied assaulting M.H., and maintained instead that he had himself been assaulted. He stated that he had sustained a lip injury during the altercation with M.H., caused by being struck with a metal pen, whereas M.H. and several witnesses claimed that the applicant's injury had resulted from him accidentally falling on to a chair while intoxicated.

29. Had the applicant been represented by counsel, timely medical and toxicological examinations could have been sought to clarify these disputed issues. The case file contains an investigator's decision dated 25 October 2012 ordering a medical examination. However, that decision only reached the expert on 21 November 2012, and the applicant was not examined until 29 November 2012, by which time any injuries had apparently healed.

30. Furthermore, a lawyer could also have promptly sought a toxicological examination to determine whether the applicant had been under the influence of alcohol on 25 October 2012, as alleged by the incriminating statements to which the domestic courts referred. Although the Government

asserted that an expert examination ordered on the day of the incident established that fact, they provided no evidence of such a document.

31. The Court also observes fundamental contradictions between the official account of the incident at the Arabkir police station on 2 November 2012 and the applicant's version of events. The applicant denied assaulting H.K. and maintained instead that H.K. had slapped and verbally assaulted him (see paragraphs 5 and 6 above). In the absence of conclusive evidence, the Court cannot determine which version is accurate. It notes, however, that access to a lawyer plays a preventive role and constitutes a fundamental safeguard against ill-treatment of suspects by the police (see *Beuze*, cited above, § 126). Access to a lawyer could have helped shed light on the incident and, if the applicant's account of events is correct, might have helped to prevent it, but the applicant was deprived of this important safeguard owing to the fault of the authorities. The Court further notes that the quality of some key incriminating evidence concerning that incident is open to doubt. In particular, the witness evidence consisted only of statements by three of H.K.'s subordinate officers. Those statements, including the investigator's questions and answers, were almost exact copies (verbatim, down to punctuation), differing only in personal details and a few lines, which suggests that no safeguards had been in place to prevent collusion.

32. There is also no indication that without a lawyer the applicant was able to exercise the full range of his procedural rights under the Code of Criminal Procedure. In the context of the forensic examinations of M.H.'s and H.K.'s injuries, these included, among other things, the right to challenge the impartiality of the experts, to put questions, and to provide explanations (Article 247 § 1 of the Code of Criminal Procedure). Nothing suggests that he was afforded any such opportunities.

33. Lastly, the domestic courts did not conduct a proper assessment of the restriction on applicant's right to legal assistance and its impact on the overall fairness of the trial (see *Bjarki H. Diego v. Iceland*, no. 30965/17, §§ 59 *in fine* and 60, 15 March 2022, and *Kohen and Others v. Turkey*, nos. 66616/10 and 3 others, § 59, 7 June 2022). Instead, they confined themselves to a single summary statement that the applicant had been provided with a lawyer and had chosen to dispense with that lawyer's services (see paragraphs 14 and 16 above).

34. In these circumstances, the Court finds that the restrictions on the applicant's access to legal assistance were extensive in duration, unsupported by compelling reasons, and deprived him of the fundamental services associated with legal assistance. Consequently, they irretrievably prejudiced the fairness of the trial as a whole.

35. There has accordingly been a violation of Article 6 §§ 1 and 3 (c) of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

36. The applicant claimed 13,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,500 in respect of the costs of legal representation, relying on the legal services agreement with his representative.

37. The Government contested these claims.

38. The Court, ruling on an equitable basis, awards the applicant EUR 3,600 in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

39. Having regard to the documents in its possession, the Court considers it reasonable to award the applicant EUR 2,500 for the costs of legal representation incurred in the domestic proceedings and before the Court, plus any tax that may be chargeable to him. That sum is to be paid directly into the bank account of the applicant's representative.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 §§ 1 and 3 (c) of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, 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), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid into the bank account of his representative;
   (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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Gilberto Felici President