

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

FIFTH SECTION

CASE OF MKRTCHYAN v. ARMENIA

(Application no. 40662/16)

JUDGMENT

STRASBOURG

6 November 2025

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



In the case of Mkrtchyan 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. 40662/16) 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 8 July 2016 by an Armenian national, Mr Karen Mkrtchyan ("the applicant"), who was born in 1984 and lives in Tashir, and was represented by Mr A. Grigoryan, a lawyer practising in Yerevan;

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

the Government' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 9 October 2025,

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

SUBJECT MATTER OF THE CASE

1. The present case concerns an alleged breach of the principle of legal certainty on account of the quashing of a final judgment in the applicant's favour. He complained under Article 6 § 1 of the Convention.

2. In 2013 the applicant, who was a practising lawyer at that time, undertook to represent the brother of L.A. during criminal proceedings against the former based on a contract for the provision of legal services concluded with L.A.

3. In October 2014 L.A. lodged a civil claim seeking to recover a pre-payment in the amount of 400,000 Armenian drams (AMD, equivalent to approximately 770 euros at the material time) from the applicant, alleging a breach of contract (L.A. claimed that the applicant should have ensured her brother's representation also during the trial, while the applicant claimed that the contract had covered legal representation only in the pre-trial stage).

4. On 23 October 2014 the Kentron and Nork-Marash District Court of Yerevan ("the District Court") took over the examination of the case.

5. By its judgment of 20 February 2015, delivered on the same day, the District Court dismissed L.A.'s claim, finding that the applicant had met his obligations under the contract. That judgment was subject to appeal within

one month from its delivery. No appeal having been lodged against the judgment by either party, it became final on 23 March 2015.

6. On 30 June 2015 L.A. lodged an appeal against the District Court's judgment of 20 February 2015 (see paragraph 5 above). Along with her appeal, L.A. requested to have the missed time-limit for lodging an appeal restored, stating that during the period when the judgment had been open to appeal she had been deemed unfit for work and at the same time had had a difficult pregnancy. In support of that request, L.A. submitted two certificates of unfitness for work (sick leave notes) – the first one, issued by a paediatrician, covering the period from 2 to 13 March 2015 inclusive (for the purpose of caring for another person) and the second one, issued by the maternity hospital, covering the period 23 March to 9 August 2015 (maternity leave).

7. On 14 July 2015 the Civil Court of Appeal ("the Court of Appeal") granted L.A.'s request to have the time-limit restored and admitted her appeal for examination with reference to, in particular, Article 77 of the former Code of Civil Procedure (in force until 9 April 2018). In doing so, the Court of Appeal stated that during the period when the judgment had been subject to appeal, L.A. had been unfit for work, at first owing to her taking care of a sick person and then because of her pregnancy, which had objectively deprived her of the possibility of lodging a timely appeal.

8. On 16 July 2015 L.A. provided the Court of Appeal with a certificate, issued by the maternity hospital on the same date, according to which she had been admitted for pre-natal care since November 2014, had given birth in May 2015 and had been issued two certificates of unfitness for work – from 23 March until 9 August 2015 and from 10 until 24 August 2015.

9. On 9 October 2015 the Court of Appeal quashed the District Court's judgment of 20 February 2015 (see paragraph 5 above) and remitted the case to the same court for re-examination.

10. On 9 November 2015 the applicant lodged an appeal on points of law against the decision of the Court of Appeal of 9 October 2015, arguing that it had been in breach of the *res judicata* principle.

11. On 2 December 2015 the Court of Cassation refused to grant the applicant leave to appeal.

12. On 26 January 2016 the District Court took over the case.

13. On 17 June 2016 a hearing took place before the District Court during which the applicant and his representative were present and presented their arguments. The next hearing was scheduled to take place on 28 June 2016.

14. On 27 June 2016 the applicant requested the District Court to adjourn the proceedings since he intended to lodge a counter-claim against L.A. for the recovery of the amounts due to him for legal services and he needed to wait for replies to the various enquiries that he had made the same day.

15. On 28 June 2016 the District Court terminated the examination of the case and on 8 July 2016 delivered a judgment granting L.A.'s claim (see paragraph 3 above) against the applicant.

16. On an appeal lodged by the applicant, the Court of Appeal upheld the District Court's judgment. In reply to a complaint lodged by the applicant about the District Court's refusal to adjourn the hearing of 28 June 2016 (see paragraph 15 above) to enable him to seek evidence and lodge a counter-claim, the Court of Appeal stated that he had had ample opportunity to present arguments, seek evidence and lodge a counter-claim starting from the day when the District Court had taken over the case until the last hearing, that is, 28 June 2016, however, he had failed to so. The Court of Appeal referred to the fact that the District Court had already once postponed a hearing at the applicant's request and that he and his representative had failed to appear at the hearing of 28 June 2016 despite being duly notified about it. Since parties to proceedings were expected to exercise their procedural rights in good faith, it could not be said that by refusing to exercise its discretionary power to adjourn the relevant hearing the District Court had acted arbitrarily.

17. On 14 December 2016 the Court of Cassation refused to grant the applicant leave to appeal.

THE COURT'S ASSESSMENT

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

18. The applicant complained that the quashing of the final judgment of 20 February 2015 had been in breach of the principle of legal certainty guaranteed under Article 6 § 1 of the Convention.

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 right to a fair hearing under Article 6 § 1 of the Convention, interpreted in the light of the principles of the rule of law and legal certainty, encompasses the requirement that, where the courts have finally determined an issue, their ruling should not be called into question (see *Brumărescu v. Romania* [GC], no. 28342/95, § 61, ECHR 1999-VII). A departure from that principle is justified only when made necessary by circumstances of a substantial and compelling character, such as the correction of fundamental defects or a miscarriage of justice (see *Karen Poghosyan v. Armenia*, no. 62356/09, § 44, 31 March 2016, and *Tığrak v. Turkey*, no. 70306/10, § 48, 6 July 2021 for a recapitulation of the relevant case-law principles). In cases where the principle of legal certainty is at issue, the Court has emphasised that respect for the principle of *res judicata* is imperative in that, by safeguarding the finality of judgments and the rights of the parties to the proceedings, it serves to ensure the stability of the judicial system and

contributes to public confidence in the courts (see *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 238, 1 December 2020).

21. In admitting L.A.'s belated appeal, the Court of Appeal referred to Article 77 of the former Code of Civil Procedure, which allowed a court, further to a party's request, to restore a missed procedural time-limit if it considered the reasons for missing the relevant time-limit valid. It decided to admit L.A.'s out-of-time appeal for examination (see paragraph 7 above), which eventually led to the quashing of the final judgment in the applicant's favour and a fresh examination of the case with an unfavourable outcome for the applicant (see paragraphs 9 and 15-17 above). In doing so, the Court of Appeal accepted L.A.'s argument that she had been unable to lodge an appeal within the one-month period following the pronouncement of the judgment because she had been unfit for work (owing to her caring for a sick person) during the period in question and had had a difficult pregnancy at the same time (see paragraphs 5 and 6 above).

22. While the renewal or the extension of the time-limit for an ordinary appeal remains primarily within the domestic courts' discretion, such discretion is not unlimited. The courts are required in every case to indicate the reasons for their decision, as well as to verify whether the reasons for renewal of a time-limit for appeal could justify the interference with the principle of *res judicata*, especially when the domestic legislation does not limit the courts' discretion either on the time or on the grounds for the renewal of the time-limits (see, *mutatis mutandis*, *Ponomaryov v. Ukraine*, no. 3236/03, §§ 41-42, 3 April 2008, and *Bezrukovy v. Russia*, no. 34616/02, §§ 33-44, 10 May 2012).

23. The judgment of 20 February 2015, which became final on 23 March 2015, had been subject to appeal within one month from the date of its delivery, that is, until 20 March 2015 (see paragraph 5 above). L.A. lodged an appeal against it on 30 June 2015 (see paragraph 6 above).

24. The Court of Appeal failed to provide any reasons for accepting L.A.'s argument that it had not been possible for her to lodge a timely appeal – an argument which was primarily supported by a sick leave note related to her caring for another person, which merely covered the period from 2 to 13 March 2015 inclusive (the medical certificates issued by the maternity hospital concerned the period starting from 23 March 2015, when the judgment had already become final). Thus, in the circumstances where the relevant sick leave note covered eleven days out of the one-month period for lodging an appeal, the Court of Appeal did not provide any reasons for finding that L.A.'s failure to lodge an appeal before or after the period covered by the relevant sick leave note was justified.

25. The Court therefore finds that the Court of Appeal failed to comply with its duty to verify whether there were sufficient reasons justifying the admission of an out-of-time appeal (see, *mutatis mutandis*, *Karen Poghosyan*, cited above, § 50).

26. In view of the foregoing, the Court concludes that, by admitting the out-of-time appeal lodged by L.A. against the District Court's judgment of 20 February 2015, the Court of Appeal failed to provide reasons of a substantial and compelling character and thereby infringed the principle of legal certainty in breach of Article 6 § 1 of the Convention.

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

II. REMAINING COMPLAINTS

28. The applicant also complained under Article 6 § 1 of the Convention about the District Court's refusal to postpone the hearing of 28 June 2016 so that he could lodge a counter-claim (see paragraphs 14 and 15 above), arguing that as a result, he had been deprived of access to a court and that the principle of equality of arms had been breached.

29. The Court has examined this part of 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, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

30. It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. The applicant did not submit a claim for just satisfaction within the set time-limit. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the alleged breach of the principle of legal certainty admissible and the remainder of the application inadmissible;

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

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Done in English, and notified in writing on 6 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President