

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

FIFTH SECTION

DECISION

Application no. 54338/17
Vartgez GASPARI
against Armenia

The European Court of Human Rights (Fifth Section), sitting on 2 April 2026 as a Committee composed of:

Georgios A. Serghides*, President*,
Gilberto Felici,
Diana Sârcu*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 54338/17) 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 29 June 2017 by an Armenian national, Mr Vartgez Gaspari ("the applicant"), who was born in 1957, lives in Yerevan and was represented by Mr T. Yegoryan, Ms L. Hakobyan and Mr D. Gyurjyan, lawyers practising in Yerevan;

the decision to give notice of the complaint under Article 6 § 1 of the Convention concerning the alleged denial of access to a court 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 application inadmissible;

the withdrawal of Mr Vahe Grigoryan, the judge elected in respect of Armenia, from sitting in the case (Rule 28 § 3 of the Rules of Court);

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged denial of access to the Criminal Court of Appeal owing to the allegedly unjustified application of a procedural time-limit, raising an issue under Article 6 § 1 of the Convention.

2. On 29 March 2016 the Shengavit District Court of Yerevan ("the District Court") delivered a judgment, imposing a fine of 450,000 Armenian drams (approximately 1,000 euros at the relevant time) on the applicant for contempt of court. The court noted that the judgment was subject to appeal to the Criminal Court of Appeal within one month of the date of pronouncement – that is, the statutory time-limit under Article 379 § 1 (1) of the former Code of Criminal Procedure as in force at the relevant time.

3. On 4 April 2016 the judgment was served on the applicant.

4. On 4 May 2016 the applicant lodged an appeal against the judgment with the Criminal Court of Appeal.

5. On 27 May 2016 the Criminal Court of Appeal declared the applicant's appeal inadmissible as out of time, finding that the relevant time-limit had expired on 29 April 2016.

6. The applicant lodged an appeal on points of law against the Criminal Court of Appeal's inadmissibility decision, but on 22 December 2016 the Court of Cassation declared his appeal inadmissible for lack of merit. That decision was served on the applicant on 29 December 2016.

7. The applicant lodged his application with the European Court of Human Rights ("the Court") on 29 June 2017.

8. By a letter from the Registry of the Court dated 3 November 2017, the applicant was asked to keep the Court informed of any significant developments in the case.

9. By a letter from the Registry of the Court dated 26 January 2022, the applicant was asked whether he wished to maintain his application. He replied in the affirmative by a letter dated 9 March 2022.

10. On 9 September 2022 the President of the Section to which the case had been allocated decided to give notice of part of the application to the Armenian Government.

11. In their observations submitted on 28 March 2023 the Government informed the Court of significant new developments in the case. In particular, on 3 July 2017 the applicant had lodged an application with the Constitutional Court, challenging the constitutionality of calculating the time-limit for appeal from the date of the pronouncement of the decision subject to appeal. On 8 December 2017 the Constitutional Court had held that the contested procedural rules had been applied unconstitutionally in the applicant's case and that the inadmissibility decision adopted in his case was subject to reconsideration. On 12 March 2018 the applicant had applied to the Court of Cassation for review of his case, arguing that the Constitutional Court's decision had constituted a new development. On 15 June 2018 the Court of Cassation had granted the applicant's appeal, quashing the Criminal Court of Appeal's inadmissibility decision and remitting the case to that court for fresh examination. On 27 July 2018 the Criminal Court of Appeal had admitted the applicant's appeal for fresh examination. On 30 October 2018 it had found the applicant guilty but had decided to quash the District Court's judgment

and not to impose a fine on the applicant, considering that the statutory limitation period had expired by then. On 8 January 2019 the applicant had lodged an appeal on points of law seeking acquittal, but on 21 May 2019 the Court of Cassation had declared his appeal inadmissible for lack of merit.

THE COURT'S ASSESSMENT

12. The applicant complained under Article 6 § 1 of the Convention that the Criminal Court of Appeal, by its decision of 27 May 2016 declaring his appeal inadmissible as out of time, had breached his right of access to a court.

13. The Government argued that the application was inadmissible as an abuse of the right of individual application, as the applicant had failed to inform the Court of new developments in his case. They further submitted that the applicant had lost his victim status as a result of those new developments.

14. The general principles concerning the rejection of an application on grounds of abuse of the right of individual application have been summarised in *Gross v. Switzerland* ([GC], no. 67810/10, § 28, ECHR 2014). In particular, the Court reiterates that the submission of incomplete and thus misleading information may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. The same applies if important new developments have occurred during the proceedings before the Court and where, despite being expressly required to do so by Rule 47 § 7 of the Rules of Court, the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts (ibid.).

15. In the present case, important new developments occurred after the application was lodged with the Court. As a result of those developments, the Criminal Court of Appeal ultimately admitted the applicant's appeal for fresh examination and examined it, delivering a decision on the merits on 30 October 2018 (see paragraph 11 above). The Court was unaware of those developments when it gave notice to the Government of part of the application. It learned of them only from the Government's observations of 28 March 2023 – that is, almost four years and five months after the developments had occurred.

16. Those were important developments that concerned the very core of the case, namely whether the applicant's right of access to a court had been breached owing to a decision declaring his appeal inadmissible as out of time. The applicant, who was represented by counsel, failed to inform the Court of those developments. The applicant's lawyer indicated that he was unable to provide an accurate explanation for the omission, but stated that it was a difficult time owing to a heavy workload, shortages of staff and financial resources, repeated office relocations, and the loss of some documents. The

Court considers that those circumstances, unsupported by any evidence, cannot justify the applicant's failure, over a period of several years, to inform the Court of the important new developments in his case.

17. In the light of the above, the Court considers that the applicant's failure to disclose essential developments in his case constitutes an abuse of the right of individual application (see *Komatinović v. Serbia* (dec.), no. 75381/10, 29 January 2013; *Gevorgyan and Others v. Armenia* (dec.), no. 66535/10, §§ 31-39, 14 January 2020; and *Ayvazyan v. Armenia* (dec.) [Committee], no. 11519/16, § 16, 22 May 2025).

18. Accordingly, the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 30 April 2026.

Martina Keller
Deputy Registrar

Georgios A. Serghides
President