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

FIFTH SECTION

DECISION

Application no. 47577/17
Artur MKRTUMYAN
against Armenia

The European Court of Human Rights (Fifth Section), sitting on 7 May 2026 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. 47577/17) 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 27 June 2017 by an Armenian national, Mr Artur Mkrtumyan ("the applicant"), who was born in 1974, is detained in Berd and, having been granted legal aid, was represented by Ms S. Harutyunyan, a lawyer practising in Yerevan;

the decision to give notice of the complaint concerning the lack of practical and effective legal assistance 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 parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged unfairness of the criminal proceedings against the applicant on account of the alleged failure by his legal aid lawyer to provide him with practical and effective legal assistance, raising an issue under Article 6 §§ 1 and 3 (c) of the Convention.

2. On 23 June 2016 the applicant was convicted of murder and sentenced to 11 years' imprisonment by the Tavush Regional Court.

3. During the proceedings before the Tavush Regional Court, he was represented by A.M., lawyer appointed through the Public Defender's Office.

4. The applicant and the victim's legal heir each lodged an appeal against the judgment.

5. In the proceedings before the Criminal Court of Appeal, the applicant was represented by G.M., another lawyer appointed through the Public Defender's Office.

6. On 14 September 2016 the Criminal Court of Appeal granted in part the appeal lodged by the victim's legal heir and dismissed the applicant's appeal. It increased the applicant's sentence to 14 years' imprisonment. The decision stated that it could be appealed within one-month of the date on which it was pronounced.

7. On 27 September 2016 that decision was served on G.M.

8. On 19 October 2016 an appeal on points of law, co-signed by the applicant and G.M., was lodged with the Court of Cassation. The wording of the appeal stated that it was being lodged within the prescribed time-limit, given that the decision being appealed against had been served on the applicant only on 27 September 2016; the wording of the appeal also cited two decisions of the Constitutional Court concerning time-limits for appeals. The appeal was accompanied by evidence (an envelope) stamped with the date of the serving of the decision being appealed against.

9. On 28 November 2016 the Court of Cassation decided to declare the appeal on points of law inadmissible on the grounds that the applicant had missed the one-month time-limit for appeal (calculated from the date of the pronouncement) and had not lodged a request for that time-limit to be restored. The Court of Cassation did not set a new time-limit for the appeal to be lodged again.

10. On 9 December 2016 G.M. again lodged an appeal on points of law with the Court of Cassation and explicitly requested that the missed time-limit be restored.

11. On 28 December 2016 the Court of Cassation rejected the request and declared the appeal inadmissible as being lodged out of time.

THE COURT'S ASSESSMENT

12. The applicant complained under Article 6 §§ 1 and 3 (c) of the Convention that he had been deprived of his right to effective legal assistance on account of the alleged failure by his lawyer appointed through the Public Defender's Office to comply with the relevant formal requirements when lodging an appeal on points of law.

13. The Court has already established the relevant principles concerning State responsibility for shortcomings on the part of officially appointed lawyers – including failure to comply with formal requirements when lodging an appeal on points of law. It reiterates that a State cannot be held responsible

for every shortcoming on the part of a lawyer appointed for legal-aid purposes. Given the principle of the independence of the legal profession from the State, the conduct of the defence is essentially a matter between the defendant and his counsel (whether that counsel was appointed under a legal-aid scheme or privately financed). The competent national authorities are required under Article 6 § 3 (c) to intervene only if a failure by legal-aid counsel to provide effective representation is manifest or sufficiently brought to their attention in some other way (see *Kamasinski v. Austria*, 19 December 1989, § 65, Series A no. 168; *Daud v. Portugal*, 21 April 1998, § 38, *Reports of Judgments and Decisions* 1998-II; and *Czekalla v. Portugal*, no. 38830/97, §§ 60 and 65-71, ECHR 2002-VIII).

14. The central point of the applicant's complaint is that his lawyer appointed through the Public Defender's Office allegedly missed the time-limit for lodging his appeal on points of law and failed to lodge a request for the restoration of that time-limit.

15. The Court observes that under Article 412 § 1 of the former Code of Criminal Procedure (as in force at the material time), the one-month time-limit for lodging an appeal on points of law started running on 14 September 2016 (the date on which the Criminal Court of Appeal pronounced its decision). However, that decision was served on the applicant's lawyer only on 27 September 2016 – that is, nearly two weeks after the pronouncement of the decision. The appeal on points of law against that decision was lodged on 19 October 2016 – that is, after the expiry of one month calculated from the date of the pronouncement of the decision, but still within one month calculated from the date of the serving of the decision.

16. The Court has had occasion to examine such situations within the context of other applications against Armenia. In view of the relevant domestic law and the Constitutional Court's decisions, the Court concluded in each such case that where a contested decision had been served belatedly, the applicants concerned could have reasonably expected that the missed time-limit for appeal would be restored and appeals lodged by them within one month of the date of the serving of the contested decision would be admitted for examination (see *Vachik Karapetyan and Others v. Armenia*, no. 15736/16, §§ 94-101, 15 May 2025). Furthermore, the Court ruled that in such circumstances, it was sufficient for the applicant concerned to clearly mention in his appeal the date of the serving of the Court of Appeal's decision and to provide evidence of it – thereby bringing the Court of Cassation's attention to such delay, which constituted valid grounds for the *ex jure* restoration of the time-limit – even where no explicit request was lodged to that effect (see *Minasyan v. Armenia* [Committee], no. 54620/16, §§ 11-12, 6 November 2025). The Court considers that a lawyer acting in accordance with this approach cannot be regarded as having failed to comply with the relevant formal requirements.

17. In the present case, the Court of Appeal's decision had been served belatedly, and the appeal prepared by the applicant's lawyer appointed through the Public Defender's Office clearly mentioned the date on which it had been served and provided evidence thereof (see paragraph 8 above). Accordingly, the conduct of the applicant's lawyer appointed through the Public Defender's Office cannot be characterised as disclosing a failure to provide effective representation. Moreover, there is no indication of any other circumstances suggesting shortcomings on the part of the applicant's lawyer. Nor is there any indication that disciplinary proceedings were initiated against him or that any complaint was lodged with the competent disciplinary authority (namely, the Chamber of Advocates). Given these circumstances, the applicant's complaint under Article 6 §§ 1 and 3 (c) of the Convention concerning the alleged lack of effective legal assistance is manifestly ill-founded.

18. The Court notes that the applicant's grievance (as formulated in his application form) was exclusively limited to the alleged ineffectiveness of the legal assistance provided by his lawyer appointed through the Public Defender's Office; it did not, either expressly or in substance, concern the calculation of the time-limit by the Court of Cassation or its conclusion regarding the failure to lodge a request for its restoration. The Court reiterates that the scope of its examination is necessarily limited by the nature of the specific complaints lodged with it. Furthermore, it is not sufficient that a violation of the Convention is "evident" from the facts of the case in question or the applicant's submissions. Rather, the applicant must complain (that a certain act or omission had constituted a violation of the rights set forth in the Convention or the Protocols thereto) in a manner that should not leave the Court to second-guess whether a certain complaint was raised or not. The Court has no power to substitute itself for the applicant and formulate new complaints simply on the basis of the arguments and facts advanced (see *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 89-91, 1 June 2023).

19. Subsequently, in his observations submitted on 24 January 2024, the applicant explicitly maintained that he did not claim that his rights had been violated by the decisions of the Court of Cassation, but rather that his lawyer appointed through the Public Defender's Office had failed to provide him with effective protection. At the same time, the applicant argued that, where evidence of the untimely receipt of the decision being appealed had been provided, the requirement to lodge a request for the restoration of the time-limit was formalistic and unjustified. The Court considers that by advancing this latter argument, the applicant raised a new and distinct complaint, which concerns judicial conduct rather than the performance of defence counsel. While nothing prevents an applicant from raising a new complaint in the course of the proceedings before the Court, such a complaint must, like any other, comply with the admissibility requirements (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 135, 20 March 2018). As the

final domestic decision was taken on 28 December 2016 (see paragraph 11 above), this complaint is inadmissible under Article 35 § 1 of the Convention (as in force at the relevant time) for failure to comply with the six-month rule.

20. Accordingly, the application must be rejected, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 May 2026.

Martina Keller Deputy Registrar	Gilberto Felici President