



European Court rejects as inadmissible complaints brought by Constitutional Court judges and President about termination of their terms of office

In its decision in the case of [Gyulumyan and Others v. Armenia](#) (application no. 25240/20) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the termination of the four applicants' terms of office at the Constitutional Court in 2020, following constitutional amendments which had not been subject to judicial review. The context of those events was the "Velvet Revolution", a new government and their efforts to combat corruption.

The applicants brought complaints essentially under Article 6 § 1 (right of access to court) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The Court found that even though the applicants' claim had concerned an arguable right under Armenian law, namely their entitlement to serve their full terms of office until retirement, their exclusion from access to a court had been justified on objective grounds. In particular, their terms of office had been ended through a constitutional amendment, which had been part of broader reform and which had not been directed against them specifically.

Furthermore, there had been no significant impact on their private lives: one of the applicants – formerly President of the Constitutional Court – had remained in office as a judge of the Constitutional Court, while the other three applicants were entitled to a full pension, regardless of their age. Nor was there any evidence of the authorities having singled out any of the applicants with negative remarks about their professional performance, personality or moral values.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicants, Alvina Gyulumyan, Hrant Nazaryan, Feliks Tokhyan, and Hrayr Tovmasyan, are Armenian nationals who were born between 1956 and 1970 and live in Yerevan. The first, second and third applicants were judges of the Armenian Constitutional Court, the last applicant was the President of that court. Ms Gyulumyan was also previously a judge at the European Court of Human Rights. At the time of their appointments, they were given life tenure, meaning they were to remain in office until their retirement.

However, in June 2020 the terms of office of the first, second and third applicants, who had served more than 13, 24 and 22 years respectively, were terminated. The term of office of the fourth applicant as President of the Constitutional Court was also terminated, but he has remained as a judge of that court.

These events took place around and following what is known in Armenia as the "Velvet Revolution", with large demonstrations in 2018 leading to the government being peacefully overturned. The new government's priorities were combatting corruption and judicial reform.

In the following years there ensued a period of conflict between the Government and Parliament, on the one side, and the Constitutional Court, on the other. Against that background the Venice Commission, the Council of Europe's advisory body on constitutional matters, was called upon to prepare several opinions on a judicial reform package proposed by the Government, involving a

voluntary retirement scheme for certain Constitutional Court judges (such as the applicants), and draft constitutional amendments.

The draft constitutional amendments proposed were, among other things, that the terms of office of those judges of the Constitutional Court who had already served a total of 12 years be terminated, and that all other judges continue to serve until the completion of a 12-year term. It was further proposed that the term of office of the President of the Constitutional Court be terminated, but as his 12-year term was not up, that he continue to sit as a judge of that court.

The National Assembly adopted those amendments in June 2020 and they immediately entered into force.

The applicants had in the meantime refused the offer of early retirement and their terms of office were thus terminated.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 26 June 2020.

Relying in particular on Articles 6 § 1 (right of access to court) and 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complained that they had not had access to a court to contest the termination of their terms of judicial office, and that that termination had been arbitrary. They also complained under Article 1 of Protocol No. 1 (protection of property) to the European Convention of the loss of their future income. Lastly, they relied on Articles 14 (prohibition of discrimination) and 18 (limitation on use of restrictions on rights) taken in conjunction with Article 8 of the European Convention.

The decision was given by a Chamber of seven judges, composed as follows:

Gabriele Kucsko-Stadlmayer (Austria), *President*,
Arnfinn Bårdsen (Norway),
Alena Poláčková (Slovakia),
Pauliine Koskelo (Finland),
Jovan Ilievski (North Macedonia),
Péter Paczolay (Hungary),
Anna Margaryan (Armenia), *ad hoc Judge*,

and also **Renata Degener**, *Section Registrar*.

Decision of the Court

Firstly, the Court found that Article 6 – and its guarantees of access to court – was not applicable to the applicants' case. Even though their claim concerned an arguable right under Armenian law, namely their entitlement to serve their full terms until retirement, their access to a court had been excluded under domestic law and that exclusion had been justified on objective grounds¹.

In particular, the Court found that the applicants' exclusion from access to court under domestic law had implicitly stemmed from the systemic interpretation of the applicable legal framework or the whole body of legal regulation.

Moreover, that exclusion had been justified by the fact that the applicants had been judges of the Constitutional Court, the highest court with a special status in the Armenian judiciary, and that their

¹ Under what is known in the Court's case-law as the *Eskelinen* test (see [Vilho Eskelinen and Others v. Finland](#) [GC], no. 63235/00 of 19.4.2007), disputes involving those holding a public post could only be excluded from the scope of Article 6 § 1 if two conditions were met: access to a court had to be excluded, either explicitly or implicitly, under national law and this exclusion was justified on objective grounds in the State interest.

terms of office had been ended through a constitutional amendment, which had been part of a broader constitutional reform and which had not been directed against them specifically. The Court notably referred to the successive Venice Commission opinions which comprehensively dealt with various aspects of the judicial reform, stating in particular in 2020 that constitutional developments in Armenia over the past 25 years had showed a “continued struggle for the improvement of democratic standards and the promotion of the rule of law”.

Secondly, the Court found that Article 8 was also not applicable. It concluded that the negative effects which the termination of the applicants’ terms of office had had on their private life had not crossed the threshold of seriousness for Article 8 of the Convention to apply. There had been no significant impact on their income: the fourth applicant remained in office as a judge of the Constitutional Court, while the other applicants were entitled to a full pension, regardless of their age. Nor was there any evidence of the authorities singling out any of the applicants with negative remarks about their professional performance, personality or moral values. Since Article 8 was not applicable, Articles 14 and 18 taken in conjunction with that Article were not applicable either.

Lastly, the Court rejected as inadmissible the applicants’ complaint under Article 1 of Protocol No. 1. It found that future income could not be considered to constitute a “possession” unless it had already been earned or was definitely payable.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.