



The European Court refuses urgent measure in case concerning constitutional reform in Armenia

The European Court of Human Rights has today decided not to apply an interim measure requested in the case **Gyulumyan and Others v. Armenia** (application no. 25240/20) concerning recent amendments to the Constitution of Armenia.

In 2015 the Constitution of Armenia was amended, introducing a 12-year non-renewable term of office for Constitutional Court (CC) judges and establishing a 6-year non-renewable mandate for the President of the CC. However, pursuant to a transitional arrangement, judges who had been appointed before the entry into force of these amendments were to continue serving under the old rules, according to which CC judges were appointed until their retirement. Similarly, the President of the CC was to keep his mandate until retirement.

Recently, it was decided to amend the Constitution in a manner that all judges of the CC would have a 12-year term of office, regardless of their date of appointment. The six-year non-renewable mandate of the President of the CC was also to be applied. Failing the ability to hold a planned referendum due to the sanitary crisis, these amendments were adopted by Parliament and entered into force in June 2020 and effectively terminated the term of office of the first three applicants in the case, judges of the CC, and the mandate of the fourth applicant as President of the CC.

The four applicants requested in particular that the European Court indicate to the Armenian Government that they freeze enforcement of the constitutional amendments and preserve their offices.

The Court decided to reject the request as outside the scope of application of Rule 39 (interim measures) of the Rules of Court, since it did not involve a risk of serious and irreparable harm of a core right under the European Convention on Human Rights.

Measures under Rule 39 of the [Rules of Court](#) are decided in connection with proceedings before the Court, without prejudging any subsequent decisions on the admissibility or merits of the case. The Court grants such requests only on an exceptional basis, when the applicants would otherwise face a real risk of irreversible harm. For further information, see the [factsheet on interim measures](#).

The applicants are Alvina Gyulumyan, Hrant Nazaryan, Feliks Tokhyan and Hrayr Tovmasyan, who were born in 1956, 1959, 1956 and 1970 and live in Yerevan. All the applicants were judges of the CC at the time of the constitutional reform. The first applicant is also a former judge of the European Court of Human Rights.

On 26 June 2020 the applicants made a request to the Court under Rule 39 of its Rules of Court for an interim measure to indicate to the Armenian Government to: freeze the enforcement of the constitutional amendments adopted by the National Assembly and, in particular, preserve the offices of the applicants; abstain from appointment of new judges at the Constitutional Court; abstain from institution of any proceedings against the judges and or/suspend the ongoing proceedings; and “ensure the physical safety, mental and moral integrity of judges by abstaining from manipulation of public perceptions through administrative resources”.

The European Court decided to reject the request as out of scope. According to the Court’s well-established practice, requests fall outside the scope of application of Rule 39 of the Rules of Court

when they do not involve a risk of serious and irreparable harm of a core right under the Convention.

In the context of their request, the applicants complain that the adoption of the constitutional amendment affecting their term of office was carried out in violation of the national law and was arbitrary. They also allege that the constitutional amendments were the result of a long process of harassment of judges of the CC, which started after the change of Government in 2018 and intensified after the CC accepted an application lodged by the former President of Armenia, Robert Kocharyan, concerning the constitutionality of criminal proceedings against him. They rely on Articles 6 (right to a fair trial), 8 (right to respect for private and family life), 14 (prohibition of discrimination) and 18 (limitation on use of restrictions on rights) of the European Convention on Human Rights, and Article 1 of Protocol No. 1 (protection of property) and Article 1 of Protocol No. 12 (general prohibition of discrimination) to the Convention.

Although the applicants' request for an interim measure has been found to be out of scope, it is still open to them to lodge an application and to pursue their complaints before the Court. When required, the Court may decide to give priority to certain applications.

The refusal of the interim measure was decided by a Chamber of the Court which was constituted by drawing of lots of judges who joined the Court after 31 October 2014, that is the date when former Judge Gyulumyan's mandate ended. The national judge withdrew from the case under Rule 28 of the Rules of Court.

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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.