



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

## FOURTH SECTION

### DECISION

Application no. 42115/17  
Armen MARTIROSYAN and Others  
against Armenia  
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 17 December 2020 as a Committee composed of:

Jolien Schukking, *President*,

Armen Harutyunyan,

Ana Maria Guerra Martins, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having regard to the above application lodged on 5 June 2017,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

### FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants were represented by Ms H. Harutyunyan, Ms A. Maralyan, Ms A. Melkonyan, and Ms S. Safaryan, lawyers based in Yerevan and Strasbourg.

The applicants' complaints under Article 5 § 3 of the Convention concerning the lack of relevant and sufficient reasons for detention were communicated to the Armenian Government ("the Government"). The applicants also raised other complaints under Article 5 § 1 (c) of the Convention.

### THE LAW

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make a unilateral declaration with

a view to resolving the issues raised by these complaints. They further requested the Court to strike out the application in accordance with Article 37 of the Convention

The Government acknowledged that there had been a violation of the applicants' rights guaranteed under Article 5 § 3 of the Convention. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case.

The applicants were sent the terms of the Government's unilateral declaration several weeks before the date of this decision. The Court has not received a response from the applicants accepting the terms of the declaration.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

“... for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints relating to the lack of relevant and sufficient reasons for detention (see, for example, *Ara Harutyunyan v. Armenia*, no. 629/11, §§ 48 et seq., 20 October 2016).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the case out of the list as regards the complaints concerning the lack of relevant and sufficient reasons for detention under Article 5 § 3 of the Convention.

The applicants also raised complaints under Article 5 § 1 (c) of the Convention.

The Court has examined 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.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Takes note* of the terms of the respondent Government's declaration concerning the lack of relevant and sufficient reasons for detention under Article 5 § 3 of the Convention, and of the arrangements for ensuring compliance with the undertakings referred to therein;

*Decides* to strike this part of the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

*Declares* the remainder of the application inadmissible.

Done in English and notified in writing on 21 January 2021.

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Liv Tigerstedt  
Acting Deputy Registrar

Jolien Schukking  
President

MARTIROSYAN AND OTHERS v. ARMENIA DECISION

APPENDIX

Application raising complaints under Article 5 § 3 of the Convention  
(lack of relevant and sufficient reasons for detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for pecuniary and non- pecuniary damage and costs and expenses per applicant (in euros) <sup>1</sup>
42115/17 05/06/2017 (4 applicants)	<b>Armen MARTIROSYAN</b> 1973	Haykuhi Harutyunyan Yerevan	03/06/2020	-	700
	<b>Vahagn GHUMASHYAN</b> 1987	Anna Maralyan Strasbourg			800
	<b>Davit SANASARYAN</b> 1983	Araks Melkonyan Yerevan			700
	<b>Hovsep KHURSHUDYAN</b> 1973	Seda Safaryan Yerevan			700

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<sup>1</sup> Plus any tax that may be chargeable to the applicants.