



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

FIRST SECTION

CASE OF AGHANYAN AND OTHERS v. ARMENIA

(Applications nos. 58070/12 and 21 others)

JUDGMENT

STRASBOURG

5 December 2019

This judgment is final but it may be subject to editorial revision.

In the case of Aghanyan and Others v. Armenia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Krzysztof Wojtyczek, *President*,

Armen Harutyunyan,

Pere Pastor Vilanova, *judges*,

and Renata Degener, *Deputy Section Registrar*,

Having deliberated in private on 12 November 2019,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in 22 applications (Mr Sergey Aghanyan and 21 others (“the applicants”) – see the appended table) 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”) by 22 Armenian nationals on the dates indicated in the appended table.

2. The applicants were represented by Mr P. Muzny, Mr A. Carbonneau and Mr A. Martirosyan, lawyers practising in Strasbourg, Paris and Yerevan respectively. The Armenian Government (“the Government”) were represented by their Agent, Mr Y. Kirakosyan, Representative of the Republic of Armenia before the European Court of Human Rights.

3. On 13 December 2018 the Government were given notice of the complaints concerning the alleged breach of the applicants’ right to freedom of thought, conscience and religion and the remainder of the applications was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants’ details are set out in the appended table.

5. The applicants are all Jehovah’s Witnesses who were convicted on various dates in 2012 after refusing to perform both military and alternative civilian service, alleging that the latter was not of genuinely civilian nature and that it contradicted their conscience. The applicants complained that the criminal proceedings against them and their convictions violated their rights guaranteed under Article 9 of the Convention.

II. RELEVANT DOMESTIC LAW

6. The relevant domestic law and international documents are summarised in the Court's judgment in the case of *Adyan and Others v. Armenia* (no. 75604/11, §§ 27-48, 12 October 2017).

THE LAW

I. JOINDER OF THE APPLICATIONS

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. THE GOVERNMENT'S REQUEST FOR THE APPLICATIONS TO BE STRUCK OUT UNDER ARTICLE 37 OF THE CONVENTION

8. In their letter of 18 April 2019 the Government rejected the Court's friendly-settlement proposals and requested that the Court strike the cases out of its list on the basis of enclosed unilateral declarations with a view to resolving the issues raised by the applicants.

9. Having considered the terms of the Government's unilateral declarations, the Court concludes that they did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 in fine).

10. The Court, therefore, rejects the Government's request to strike the application out and will accordingly pursue its examination of the merits of the case (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

III. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION

11. The applicants complained that the criminal proceedings against them and their convictions for evasion of military and alternative civilian service had violated their rights as provided in Article 9 of the Convention, which reads as follows:

“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or belief shall be subject only to such limitations as are necessary in a democratic society in the interests of public safety,

for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

12. The Government did not contest that argument.

13. The Court already found a violation of Article 9 of the Convention in respect of issues similar to those in the present case in the leading judgment of *Adyan and Others* (cited above, §§ 67-74).

14. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the applicants’ convictions for evasion of military and alternative service violated their right to freedom of thought, conscience and religion.

15. These complaints are therefore admissible and disclose a breach of Article 9 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

16. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

17. The applicants claimed each 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses incurred in the domestic proceedings and before the Court.

18. The Government contested the claims, arguing that the amounts claimed were exorbitant.

19. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award each applicant EUR 10,000 for non-pecuniary damage and EUR 1,000 covering costs for the domestic proceedings and those before the Court.

20. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Rejects* the Government’s request to strike the applications out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declarations which they submitted;

3. *Declares* the complaints concerning an alleged violation of the applicants' right to freedom of thought, conscience and religion admissible;
4. *Holds* that there has been a violation of Article 9 of the Convention in respect of each applicant;
5. *Holds*
 - (a) that the respondent State is to pay each applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 5 December 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Renata Degener
Deputy Registrar

Krzysztof Wojtyczek
President

Appendix

List of cases

No.	Application no.	Case name	Lodged on	Applicant Date of Birth Place of Residence Nationality
1	58070/12	Aghanyan v. Armenia	03/09/2012	Sergey AGHANYAN 02/06/1993 Yerevan Armenian
2	58073/12	Arakelyan v. Armenia	03/09/2012	Aramayis ARAKELYAN 19/06/1993 Metsamor Armenian
3	58077/12	Aslanyan v. Armenia	03/09/2012	Artur ASLANYAN 14/10/1993 Gyumri Armenian
4	58078/12	Grigoryan v. Armenia	03/09/2012	Anania GRIGORYAN 12/12/1993 Nor-Armavir village Armenian
5	58085/12	Harutyunyan v. Armenia	03/09/2012	Arsen HARUTYUNYAN 20/02/1993 Yerevan Armenian
6	58089/12	Hovhannisyan v. Armenia	03/09/2012	Andranik HOVHANNISYAN 31/03/1993 Yerevan Armenian
7	58091/12	Khachatryan v. Armenia	03/09/2012	Artsrun KHACHATRYAN 20/09/1993 Meghradzor village Armenian
8	58095/12	Khodoyan v. Armenia	03/09/2012	Maksim KHODOYAN 03/04/1988 Nor Geghi village Armenian

No.	Application no.	Case name	Lodged on	Applicant Date of Birth Place of Residence Nationality
9	58098/12	Sahakyan v. Armenia	03/09/2011	Gevorg SAHAKYAN 20/01/1993 Yerevan Armenian
10	58111/12	Stepanyan v. Armenia	03/09/2012	Seryozha STEPANYAN 22/03/1993 Armavir Armenian
11	58120/12	Vardanyan v. Armenia	03/09/2012	Varazdat VARDANYAN 26/10/1993 Nor Kharberd Armenian
12	58127/12	Zakaryan v. Armenia	03/09/2012	Nver ZAKARYAN 30/10/1993 Lusakunk Armenian
13	752/13	Arakelyan v. Armenia	21/12/2012	Davit ARAKELYAN 19/03/1994 Yerevan Armenian
14	757/13	Arakelyan v. Armenia	21/12/2012	Gevorg ARAKELYAN 03/01/1990 Yerevan Armenian
15	758/13	Boyajyan v. Armenia	21/12/2012	Tigran BOYAJYAN 13/07/1993 Yerevan Armenian
16	760/13	Davtyan v. Armenia	21/12/2012	Hakob DAVTYAN 22/05/1994 Vardenik village Armenian
17	761/13	Galstyan v. Armenia	21/12/2012	Mushegh GALSTYAN 03/04/1994 Zovuni village Armenian
18	762/13	Manasyan v. Armenia	21/12/2012	Mikhail MANASYAN 03/08/1993 Avan Arzni Armenian
19	764/13	Sargsyan v. Armenia	21/12/2012	Vahe SARGSYAN 01/01/1993 Yerevan

No.	Application no.	Case name	Lodged on	Applicant Date of Birth Place of Residence Nationality
				Armenian
20	766/13	Ter-Galstanyan v. Armenia	21/12/2012	Vahe TER-GALSTANYAN 02/07/1993 Yerevan Armenian
21	767/13	Yeremyan v. Armenia	21/12/2012	Artyom YEREMYAN 31/10/1990 Yerevan Armenian
22	768/13	Yesayan v. Armenia	21/12/2012	Martiros YESAYAN 28/02/1994 Yerevan Armenian