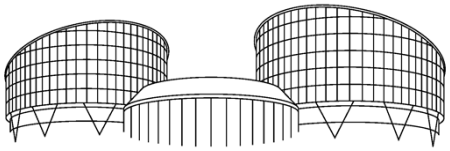

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 41320/13
Aram DAVTYAN
against Armenia
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 25 November 2021 as a Committee composed of:

Jolien Schukking, *President,*
Armen Harutyunyan,
Ana Maria Guerra Martins, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 19 June 2013,

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 applicant's details are set out in the appended table. He was represented by Ms N. Svaryan, a lawyer practising in Yerevan.

The applicant's complaints under Article 3 of the Convention concerning inadequate detention conditions in the Nubarashen Remand Prison were communicated to the Armenian Government ("the Government").

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 declaration provided as follows:

> "I, Yeghishe Kirakosyan, the Agent of the Government of the Republic of Armenia before the European Court of Human Rights, having regard to the Court's findings in its judgment in the case of *Gaspari v. Armenia*[1], hereby declare that the Armenian Government acknowledges that in the instant case the conditions of the applicant's detention in the Nubarashen Penitentiary Institution were not compatible with the requirements of Article 3 of the Convention and that there has been a violation of Article 3 of the Convention in that respect. The Government offers to pay to the applicant Aram Davtyan the amount of EUR 3,600 (three thousand six hundred euros) to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant.
>
> The Government notes that the circumstances of the present case are similar to those in the case of *Gaspari*. At the same time, the Government invites the Court's attention to the fact that general measures to prevent similar violations in the future have being undertaken by the Government. As a result of the Government's diligence, effective external inspection mechanisms and the constructive cooperation with a number of governmental and non-governmental institutions, certain measures were taken in the recent years with the aim to improve the conditions of detention and steps have been proactively taken by the Government to overcome the overcrowding issue in Nubarashen penitentiary institution.[2]
>
> In its turn, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the CPT) in its Report on the visit to Armenia in December 2019 stated that its delegation carried out follow-up visits to [*inter alia*] Nubarashen [Remand Prison]. The Committee welcomed the plans of the Armenian authorities to close down, by the end of 2022, several old prisons ([including] Nubarashen) where material conditions vary from very poor to just about acceptable and to replace them with new prisons (or units) built from scratch according to contemporary international standards.[3]
>
> Thus, the Government finds that the general measures related to the prevention of the violations of Article 3 of the Convention that the applicant has complained of in the present case are currently being undertaken by the Armenian Government in order to prevent similar violations in the future. Thus, the monetary compensation to the applicant shall constitute sufficient just satisfaction in the present case".

They invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount proposed 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 this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the

[1] *Gaspari v. Armenia*, no. 44769/08, 20 September 2018
[2] Government's Action Plan (02/04/2020) concerning Mushegh Saghatelyan group of cases
[3] CPT/Inf (2021)10

European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

The applicant was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. He refused it.

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 applicant wishes 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 inadequate detention conditions (see, for example, *Muršić v. Croatia* [GC], no. 7334/13, §§ 99-101 and 137-41, 20 October 2016, and *Gaspari v. Armenia*, no. 44769/08, §§ 50-53, 20 September 2018).

The Court takes note of the general measures currently being undertaken by the Government as indicated in their declaration.

Having regard to the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – 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 (see *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.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

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

Done in English and notified in writing on 16 December 2021.

Viktoriya Maradudina Acting Deputy Registrar	Jolien Schukking President

APPENDIX

Application raising complaints under Article 3 of the Convention (inadequate conditions of 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	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros)[1]
41320/13 19/06/2013	**Aram DAVTYAN** 1956	Svaryan Nvard Yerevan	29/07/2021	11/09/2021	3,600

[1] Plus any tax that may be chargeable to the applicant