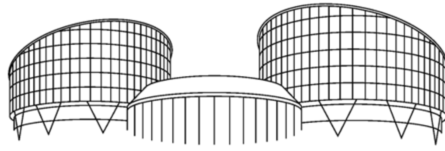

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF MANUKYAN AND AYVAZYAN v. ARMENIA

(Applications nos. 43925/16 and 43925/16)

JUDGMENT

STRASBOURG

2 March 2023

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Manukyan and Ayvazyan v. Armenia,

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

Anja Seibert-Fohr, *President*,
Armen Harutyunyan,
Ana Maria Guerra Martins, *judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 2 February 2023,

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

PROCEDURE

1. The case originated in applications against Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on the various dates indicated in the appended table

2. The Armenian Government ("the Government") were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the lack of relevant and sufficient reasons for detention. In application no. 43925/16, the applicant also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. The applicants complained of the lack of relevant and sufficient reasons for detention. They relied, expressly or in substance, on Article 5 § 3 of the Convention.

7. The Government submitted observations in respect of application no. 3697/20 disputing the violation alleged.

8. The Court reiterates that, according to its established case-law under Article 5 § 3 of the Convention, the persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for

the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings. The Court has also held that justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities. When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures for ensuring this person's appearance at trial. The requirement for the judicial officer to give "relevant" and "sufficient" reasons for the detention – in addition to the persistence of reasonable suspicion – applies already at the time of the first decision ordering detention on remand, that is to say "promptly" after the arrest (see, among other authorities, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 87 and 102, 5 July 2016).

9. In so far as application no. 3697/20 is concerned, the Court notes that, when applying and extending the applicant's pre-trial detention between 9 November 2018 and 9 May 2019, the domestic courts relied on, *inter alia*, the existence of a reasonable suspicion of his involvement in preparation of murder by a group of persons; the gravity of the charges; the applicant's previous attempt to leave the country with a fake passport; the risk of his influencing others given that the alleged offence had been committed by a group and that the applicant's co-conspirators had not yet been identified. The Court is prepared to accept that the seriousness of the alleged crimes and the applicant's conduct could reasonably constitute sufficient factual grounds justifying his pre-trial detention between 9 November 2018 and 9 May 2019.

In view of the above, the Court finds that this part of application no. 3697/20 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

10. That said, in their subsequent decisions on extending the applicant's detention the domestic courts limited themselves to repeating a number of grounds for detention in an abstract and formulaic way, without giving any reasons why they considered those grounds relevant to the applicant's case as it progressed. They also failed to mention any case-specific facts relevant to those grounds and to substantiate them with relevant and sufficient reasons. The courts have also used stereotyped formula for the applicant's detention in application no. 43925/16.

11. In the leading case of *Ara Harutyunyan v. Armenia*, no. 629/11, §§ 48 et seq., 20 October 2016, the Court already found a violation in respect of issues similar to those in the present case.

12. Having examined all the material submitted to it and the arguments of the parties, 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 domestic courts failed to provide relevant and sufficient reasons for the periods of the applicants' pre-trial detention as indicated in the appended table below.

13. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

14. In application no. 43925/16, the applicant raised another complaint which also raised an issue under the Convention, given the relevant well-established case-law of the Court (see appended table). This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that it also discloses a violation of the Convention in the light of its findings in, *mutatis mutandis*, *Mamedova v. Russia* (no. 7064/05, § 96, 1 June 2006), and *Niyazov v. Russia* (no. 27843/11, § 163, 16 October 2012).

IV. REMAINING COMPLAINTS

15. The applicant in application no. 43925/16 further complained under Article 5 § 1 of the Convention that his detention had not been based on a reasonable suspicion. The Court has examined this complaint and considers that, in the light of all the material in its possession and in so far as the matter complained of is within its competence, it either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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

V. 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. Regard being had to the documents in its possession and to its case-law (see, in particular, *Ara Harutyunyan*, cited above, § 66), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaints under Article 5 §§ 3 and 4 of the Convention in application no. 43925/16, and the complaint under Article 5 § 3 in application no. 3697/20, in respect of the period of detention indicated in the appended table, admissible, and the remainder of the applications inadmissible;

3. *Holds* that these complaints disclose a breach of Article 5 § 3 of the Convention concerning the lack of relevant and sufficient reasons for the periods of the applicants' detention indicated in the appended table below;

4. *Holds* that there has been a violation of the Convention as regards the complaint under Article 5 § 4 of the Convention raised under the well-established case-law of the Court in application no. 43925/16 (see appended table);

5. *Holds*
   (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (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.

Done in English, and notified in writing on 2 March 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Anja Seibert-Fohr
President

APPENDIX

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

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Court which issued detention order/ examined appeal	Specific defects	Other complaints under well-established case-law	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
1.	43925/16 31/08/2016	**Aram MANUKYAN** 1994	Petrosyan Inessa Yerevan	27/07/2016 - 26/09/2016	Kentron and Nork-Marash District Court of Yerevan Criminal Court of Appeal	fragility of the reasons employed by the courts	Art. 5 (4) - excessive length of judicial review of detention - The Criminal Court of Appeal examined the applicant's appeal in 23 days.	2,600	250
2.	3697/20 30/12/2019	**Samvel AYVAZYAN** 1975	Hovhannisyan Gurgen Yerevan	09/05/2019 - 09/09/2019	Court of General Jurisdiction of Yerevan Criminal Court of Appeal	fragility of the reasons employed by the courts		2,000	250

[1] Plus any tax that may be chargeable to the applicants.
[2] Plus any tax that may be chargeable to the applicants.