



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

FOURTH SECTION

**CASE OF YEDIGARYAN v. ARMENIA**

*(Application no. 56126/17)*

JUDGMENT

STRASBOURG

18 January 2024

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



**In the case of Yedigaryan v. Armenia,**

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

Faris Vehabović, *President*,

Anja Seibert-Fohr,

Anne Louise Bormann, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 14 December 2023,

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

## PROCEDURE

1. The case originated in an application against Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 26 July 2017.

2. The applicant was represented by Mr A. Ghazaryan, a lawyer practising in Yerevan.

3. The Armenian Government (“the Government”) were given notice of the application.

## THE FACTS

4. The applicant’s details and information relevant to the application are set out in the appended table.

5. The applicant complained of the unlawful detention. He also raised a complaint under Article 5 § 3 of the Convention.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

6. The applicant complained of the unlawful detention (for further details see appended table). He relied on Article 5 § 1 of the Convention.

7. The Government submitted that the applicant had lodged his complaint outside the six-month time-limit set out in Article 35 § 1 of the Convention.

8. The Court observes in this respect that the applicant’s complaint about the unlawfulness of his detention during trial concerned a continuing situation, which started on 21 May 2015, when the Kentron and Nork-Marash District Court of Yerevan left the applicant’s detention unchanged without setting any time-limit, and ended when the trial court convicted him on 26 January 2017. The applicant lodged his complaint within six months after the date of his conviction (for similar reasoning, see *Popovych v. Ukraine*, no. 44704/11, §§ 30-34, 22 April 2021). The Court therefore dismisses the Government’s objection. It further notes that the applicant’s complaint is not

manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

9. The Court reiterates that, in order to comply with Article 5 § 1 of the Convention, the detention in issue must take place “in accordance with a procedure prescribed by law” and be “lawful”. The Convention here refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules of national law, but it requires in addition that any deprivation of liberty should be in keeping with the aim of Article 5, namely to protect the individual from arbitrariness (see *Hutchison Reid v. the United Kingdom*, no. 50272/99, § 47, ECHR 2003 IV; *Assanidze v. Georgia* [GC], no. 71503/01, § 171, ECHR 2004 II; and *Vasenin v. Russia*, no. 48023/06, § 108, 21 June 2016). The absence of any grounds given by the judicial authorities in their decisions authorising detention for a prolonged period of time may be incompatible with the principle of the protection from arbitrariness enshrined in Article 5 § 1 (see *Stašaitis v. Lithuania*, no. 47679/99, § 67, 21 March 2002; *Nakhmanovich v. Russia*, no. 55669/00, § 70, 2 March 2006; and *Yeloyev v. Ukraine*, no. 17283/02, § 54, 6 November 2008)

10. In the leading case of *Vardan Martirosyan v. Armenia* (no. 13610/12, 15 June 2021), the Court already found a violation in respect of issues similar to those in the present case.

11. 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 in respect of this complaint. Having regard to its case-law on the subject, the Court considers that in the instant case the decision of the Kentron and Nork-Marash District Court of Yerevan of 21 May 2015 did not afford the applicant adequate protection from arbitrariness which is an essential element of the lawfulness of detention within the meaning of Article 5 § 1 of the Convention, and that, therefore, the applicant’s detention from 21 May 2015 failed to comply with the requirements of Article 5 § 1 of the Convention.

12. This complaint therefore discloses a breach of Article 5 § 1 of the Convention.

## II. REMAINING COMPLAINTS

13. The applicant also submitted an additional related complaint under Article 5 § 3 of the Convention. Having examined all the material before it, the Court concludes that it has already determined the main legal issue in the present case (see paragraphs 11 and 12 above) and that accordingly there is no need to examine this complaint separately (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *Vardan Martirosyan*, cited above), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 5 § 1 of the Convention admissible and *finds* that it is not necessary to examine separately the applicant's remaining complaint under Article 5 § 3 of the Convention;
2. *Holds* that there has been a breach of Article 5 § 1 of the Convention concerning the unlawful detention of the applicant;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, 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 18 January 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina  
Acting Deputy Registrar

Faris Vehabović  
President

YEDIGARYAN v. ARMENIA JUDGMENT

APPENDIX

Application raising complaints under Article 5 § 1 of the Convention  
(unlawful detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of unlawful detention	Court which issued detention order	Specific defects	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1</sup>	Amount awarded for costs and expenses per application (in euros) <sup>2</sup>
56126/17 26/07/2017	<b>Semyon YEDIGARYAN</b> 1989	Ghazaryan Ara Yerevan	21/05/2015 - 26/01/2017	Kentron and Nork-Marash District Court of Yerevan	absence of any grounds given by the court in the decision authorising detention, decision on detention without a time-limit	4,000	250

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

<sup>2</sup> Plus any tax that may be chargeable to the applicant.