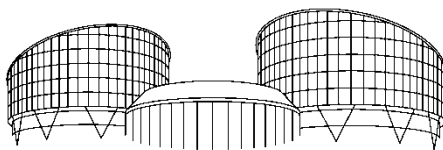


La CEDU sulla violazione dell'art. 6 della Convenzione
(CEDU, sez. V, sent. 15 maggio 2025, ricc. nn. 15736/16, 24649/16, 25718/16)

Nel caso in esame, la Corte si pronuncia sulla presunta violazione dell'art. 6 della Convenzione EDU, sollevata da cittadini armeni i cui ricorsi in Cassazione erano stati respinti per tardività. A tal proposito, il giudice di Strasburgo si trova a dover valutare se la restrizione all'accesso dei ricorrenti alle corti superiori perseguisse un obiettivo legittimo e, in caso affermativo, se fosse proporzionata e prevedibile rispetto a tale obiettivo. In relazione al primo profilo, le norme che disciplinano i termini di ricorso mirano a garantire una corretta amministrazione della giustizia, non potendosi dunque contestare la legittimità. Quanto al secondo aspetto, la Corte di Cassazione armena aveva dichiarato i ricorsi inammissibili per essere stati presentati oltre il termine di un mese previsto dalla normativa interna, calcolando tale termine però a partire dalla data della pronuncia, anziché da quella della notifica. La Corte EDU, a tal riguardo, ha rilevato che una simile previsione non viola di per sé l'articolo 6 della Convenzione, a condizione che la suddetta limitazione temporale sia accompagnata da adeguate garanzie, quali la tempestiva notifica delle decisioni giudiziarie e la possibilità di chiedere il ripristino del termine di ricorso. Nel caso di specie, essendo la decisione stata notificata solo dopo un significativo lasso temporale, non poteva ritenersi soddisfatta la condizione di tempestività affinché il termine decorresse dalla data della pronuncia. Inoltre, dalla giurisprudenza interna emergeva un grado di imprevedibilità circa la dichiarazione di inammissibilità dei ricorsi per il decorso del termine mensile, atteso che altri ricorsi presentati entro un mese dalla notifica erano stati ugualmente accolti. Ne deriva che l'inammissibilità dei ricorsi ha comportato una lesione dell'essenza stessa del diritto di accesso dei ricorrenti a un giudice, potendo la Corte dichiarare la violazione dell'articolo 6 della Convenzione.



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

CASE OF XXX v. ARMENIA

(Applications nos. 15736/16 and 2 others)

JUDGMENT
STRASBOURG

15 May 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of XXX v. Armenia,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Mattias Guyomar, *President*,
Armen Harutyunyan,
Stéphanie Mourou-Vikström,
Gilberto Felici,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy, *judges*,
and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the applications (nos. 15736/16, 24649/16 and 25718/16) 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 three Armenian nationals (“the applicants”), on the various dates indicated in the appended table;

the decision to give notice to the Armenian Government (“the Government”) of the complaints concerning the right of access to a court and to declare the remainder of the applications inadmissible;

the parties’ observations;

Having deliberated in private on 23 April 2025,

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

INTRODUCTION

1. The applications concern the applicants’ allegations that they had been denied access to superior courts owing to the unjustified application of procedural time-limits, raising issues under Article 6 § 1 of the Convention.

THE FACTS

2. The applicants’ details and the dates on which their respective applications were lodged are set out in the appendix. The applicants were represented by “Omissis”, a lawyer practising in “Omissis”.

3. The Government were represented by their Agent, "Omissis", Representative of the Republic of Armenia on International Legal Matters.

4. The facts of the case may be summarised as follows.

I. Application no. 15736/16 lodged by "Omissis"

5. On 5 November 2013, "Omissis", a private person, lodged a claim with the Lori Regional Court against the applicant (in application no. 15736/16) and "Omissis", another private person, seeking, *inter alia*, their eviction from a house. The applicant and "Omissis" lodged a counterclaim challenging, among other things, "Omissis"'s rights over the house.

6. On 12 March 2015 the Lori Regional Court granted "Omissis"'s claim, ordering the eviction of the applicant and "Omissis" It also dismissed the applicant's counterclaim.

7. The applicant appealed against the judgment.

8. On 30 June 2015 the Civil Court of Appeal partially allowed the appeal, dismissing "Omissis"'s claim to evict the applicant and "Omissis" but upholding the remainder of the judgment.

9. On 2 July 2015 the Civil Court of Appeal sent its decision to the applicant, who received it on 3 July 2015.

10. On 3 August 2015 the applicant lodged an appeal on points of law with the Court of Cassation. In a paragraph of his appeal titled "A note" (*ծանոթագրություն*), he stated that the appeal had been submitted within the relevant time-limit and referred to the decision of the Constitutional Court of 16 October 2012 (see paragraphs 54-58 below) as grounds for that assertion. The applicant also indicated that he had received the decision of the Civil Court of Appeal on 3 July 2015. He asked the Court of Cassation to restore the one-month time-limit for lodging the appeal and view 3 August 2015 as the final day of that period. Additionally, he provided a copy of an envelope showing the date on which the Civil Court of Appeal's decision had been served.

11. On 26 August 2015 the Court of Cassation declared the appeal inadmissible on the grounds that the applicant had submitted his appeal outside the one-month time-limit and had not asked for the time-limit to be restored. It referred to Article 229 § 1 and Article 233.1 § 1 of the former Code of Civil Procedure ("the CCP" – see paragraphs 37-38 below). The decision was served on the applicant on 5 September 2015.

II. Application no. 24649/16 lodged by "Omissis"

12. On 2 December 2013 the applicant (in application no. 24649/16) participated in a public protest and was "taken" to a police station for allegedly disobeying a lawful police order. According to the applicant, he was held in the police station for over three hours before being released.

13. On 31 January 2014 the police lodged a claim with the Administrative Court, seeking to impose a penalty on the applicant under Article 180.1 § 15 of the Code of Administrative Offences ("the CAO" – see paragraph 53 below) for disobeying a lawful order of the police.

14. On 4 July 2014 the Administrative Court found the applicant responsible for an offence under Article 180.1 § 15 of the CAO and imposed a fine of 50,000 Armenian drams (AMD – approximately 90 euros (EUR) at the material time).

15. The applicant lodged an appeal with the Administrative Court of Appeal.

16. On 26 June 2015 the Administrative Court of Appeal dismissed the applicant's appeal for lack of merit. The court sent its decision to the applicant on 29 June 2015, which he received on 30 June 2015.

17. On 30 July 2015 the applicant lodged an appeal on points of law and asked for the time-limit for appeal to be restored. However, he failed to sign the appeal and submit certain required documents.

18. On 26 August 2015 the Court of Cassation returned the appeal, noting that it had not been signed and that certain required documents were missing. It granted the applicant three days from the date of service to correct those mistakes and resubmit the appeal. The applicant received the decision on 4 September 2015.

19. On 9 September 2015 the applicant resubmitted the appeal within three working days, excluding 5 and 6 September 2015 which fell on a weekend. In his submission, he noted the dates on which he had received the Administrative Court of Appeal's decision and the Court of Cassation's decision to return the appeal. He asked for the missed time-limit to be restored on the basis of the Constitutional Court's decision of 16 October 2012. He also provided a copy of an envelope showing the date on which the contested decision had been received.

20. On 14 October 2015 the Court of Cassation declared the appeal inadmissible as lodged out of time. It essentially found that the applicant's request to restore the time-limit pertained to the three-day period granted by the Court of Cassation on 26 August 2015 to correct the mistakes (see paragraph 19 above), and that no request had been submitted to restore the one-month time-limit for appealing against the Administrative Court of Appeal's decision of 26 June 2015. That decision was served on the applicant on 21 October 2015.

III. Application no. 25718/16 lodged by "Omissis"

21. On 18 March 2013 the applicant (in application no. 25718/16) lodged a civil claim with the Ararat and Vayots Dzor Regional Court ("the Ararat Regional Court") against a private person, seeking compensation for defamation.

22. On 24 June 2015 the Ararat Regional Court dismissed the claim. The judgment was sent to the applicant on 2 July 2015 and received on 6 July 2015.

23. On 6 August 2015 the applicant lodged an appeal. She noted that her appeal had been lodged within the one-month time-limit for appeal, referring to the Constitutional Court's decision of 16 October 2012. She also stated that she had only received the judgment of the Ararat Regional Court on 6 July 2015 and submitted evidence confirming the date of service.

24. On 27 August 2015 the Civil Court of Appeal, taking into account the fact that the applicant had asked for the time-limit for appeal to be restored, decided to refuse her request and declared the appeal inadmissible as lodged out of time. The court erroneously stated that the

judgment of the Ararat Regional Court had been served on 1 July 2015, requiring the appeal to be lodged on 1 August 2015, and also erroneously stated that the appeal had been lodged on 7 August 2015.

25. The applicant appealed against the inadmissibility decision to the Court of Cassation.

26. On 21 October 2015 the Court of Cassation declared the applicant's appeal inadmissible for lack of merit.

27. Meanwhile, on 11 September 2015, the applicant resubmitted her appeal to the Civil Court of Appeal, arguing that it had been submitted within the required time-limit.

28. On 15 September 2015 the Civil Court of Appeal admitted the appeal for examination, noting that its form and content complied with procedural requirements.

29. On 11 December 2015 the Civil Court of Appeal dismissed the applicant's appeal. It acknowledged that the judgment of the Ararat Regional Court had in fact been served on 6 July 2015 and that the applicant had lodged her appeal on 6 August 2015, contrary to its earlier conclusion in its decision of 27 August 2015. However, it held that in the light of the legal position expressed in its earlier decision declaring the appeal inadmissible (see paragraph 24 above), it had not been authorised to admit the appeal for examination and to review the lower court's judgment. The court did not address the grounds of the appeal.

30. The applicant subsequently appealed on points of law.

31. On 6 April 2016 the Court of Cassation declared her appeal inadmissible for lack of merit.

RELEVANT LEGAL FRAMEWORK

I. Relevant domestic law

A. Former Code of Civil Procedure (in force until 9 April 2018)

32. Article 124 provided that immediately after a judgment was pronounced, a copy of it was to be given to the parties. If a party was absent at the pronouncement, a copy of the judgment was to be sent to him or her by registered post either on the day of the pronouncement or the following day.

33. Under Article 140 § 1, judgments of the courts of general jurisdiction entered into force one month after the date of pronouncement.

34. Under Article 207 § 1, an appeal against a judgment could be lodged with the Civil Court of Appeal before the judgment entered into force.

35. Article 221.1 provided that decisions of the Civil Court of Appeal on the merits of a case entered into force one month after the date of pronouncement.

36. Under Article 221.2, decisions of the Civil Court of Appeal were pronounced and sent to the parties in the same manner as judgments of the first-instance courts (see paragraph 12 above).

37. Under Article 229 § 1, an appeal on points of law against a decision on the merits of a case could be lodged before that decision entered into force.

38. Under Article 233.1 § 1 (1), an appeal on points of law was to be declared inadmissible if it had been lodged out of time and no request to restore the time-limit had been submitted or such a request had been refused.

B. Code of Administrative Procedure (2014 – “the CAP”)

39. Under Article 51 §§ 3 and 4, non-working days were excluded from time-limits calculated in days. Procedural periods calculated in days began on the day following the calendar date which determined the start of the period.

40. Under Article 114 § 7 and Article 149, if a party was absent during the pronouncement of the decision by the Administrative Court of Appeal, a copy of the decision was to be sent to him or her by registered post on the day of the pronouncement or the following day.

41. Under Article 148 § 1, decisions of the Administrative Court of Appeal on the merits of a case entered into force one month after the date of pronouncement.

42. Under Article 156 § 1, an appeal on points of law against a decision on the merits of a case could be lodged prior to the decision entering into force.

43. Under Article 160 § 1 (1), an appeal on points of law was to be declared inadmissible if it had been lodged out of time and no request to restore the time-limit had been submitted or such a request had been refused.

C. The former Code of Criminal Procedure (in force until 1 April 2022 – “the CCrP”)

44. Under Article 379 § 1 (1), an appeal against a judgment of a first-instance court could be lodged within one month of the date of pronouncement.

45. Under Article 379 § 1 (3), an appeal against a decision of a first-instance court regarding detention, the extension of detention and the placement of persons in a medical institution could be lodged within five days of the date of pronouncement. Appeals against other decisions not deciding the case on the merits could be lodged within ten days of their pronouncement.

46. Under Article 380 § 1, if the time-limit for lodging an appeal was missed for valid reasons, the person entitled to appeal could ask the court to restore the missed time-limit.

47. Under Article 402 § 1, decisions of the Criminal Court of Appeal on the merits of the case entered into force one month after the date of pronouncement.

48. Under Article 402 § 2, decisions of the Criminal Court of Appeal should be sent to the parties no later than three days after the date of pronouncement.

49. Under Article 412 § 1, an appeal on points of law against a decision of the Criminal Court of Appeal on the merits of a case could be lodged within one month of its pronouncement, while appeals against other decisions could be lodged within fifteen days, unless the law provided otherwise.

50. Under Article 414.1 § 2 (1), an appeal on points of law was to be declared inadmissible if it had been lodged out of time and no request to restore the time-limit had been submitted or such a request had been refused.

D. Code of Administrative Offences (1986)

51. Under Article 22, an administrative penalty is a form of liability which is imposed in order to educate the person who has committed an administrative offence to uphold Soviet laws and to respect the rules of the socialist way of life, as well as to deter the offender and others from committing new offences.

52. Under Article 32, when imposing a penalty, the nature of the offence, the offender's personality, the extent of his or her guilt, his or her financial circumstances, and mitigating or aggravating circumstances are to be taken into account.

53. Article 180.1 § 15 provides that disobeying a lawful police order aimed at ensuring the peaceful and normal conduct of a public gathering is punishable by a fine of 50 to 100 times the fixed minimum wage.

II. Constitutional Court Decisions

A. Constitutional Court Decision of 16 October 2012 on the conformity of Article 379 § 1 (3) and Article 380 §§ 1 and 2 of the CCrP with the Constitution (*U9N-1052*)

54. In this decision, one of the issues raised before the Constitutional Court was that, under Article 379 § 1 (3) of the CCrP (see paragraph 45 above), the time-limit for an appeal against a court decision started running from the date of the pronouncement of the decision, although the party concerned might not yet have received a full copy of the decision.

55. The Constitutional Court noted, as part of its reasoning, that if the legislature, on the basis of the nature of the judicial decision subject to appeal, deemed a specific time-limit – in the particular case, five or ten days – appropriate for lodging an appeal, that time-limit had to start to run from the moment the party had a genuine opportunity to become acquainted with the judicial decision subject to appeal. It further held that if the time-limit for lodging an appeal was missed because a judgment or a decision had not been served on a party within the period prescribed by law, the missed time-limit had to be restored *de jure*, without judicial discretion.

56. The Constitutional Court concluded that Article 379 § 1 (3) of the CCrP was constitutional provided that it was guaranteed that the appellant was served the decision subject to appeal within the period prescribed by law and that the time-limit missed for reasons beyond his or her control was restored *de jure*.

57. Furthermore, the court declared Article 380 § 1 (see paragraph 23 above) of the CCrP unconstitutional insofar as the restoration of a time-limit missed for reasons beyond the appellant's control, such as a delay in serving the decision, was left to judicial discretion and was not restored *de jure*.

58. Lastly, the Constitutional Court reviewed the constitutionality of Article 402 of the CCrP (see paragraphs 47-48 above), of its own motion, as it was linked to the other provisions under examination. As regards the requirement in Article 402 § 2 for the Criminal Court of Appeal's decision to "be sent to" the parties within three days of its pronouncement, the Court noted that the actual delivery time depended on the dispatch method and was therefore unpredictable. It ruled that Article 402 of the CCrP was constitutional provided that the phrase "be sent to" guaranteed that the full copy of the decision was actually served on the parties concerned (or

made available through official publication on the court's website) within the period prescribed by law, rather than merely sent within that period.

B. Constitutional Court Decision of 18 December 2012 on the conformity of Article 412 § 1 of the CCrP with the Constitution (UqN-1062)

59. In this decision, the Constitutional Court confirmed that the legal position expressed in its earlier decision of 16 October 2012 (UqN-1052) applied not only to appeals against interim decisions but also to appeals against decisions on the merits of a case. Referring to its earlier finding regarding the three-day period for the service of decisions (see paragraph 58 above), it clarified that a person must have at least twenty-seven days to submit an appeal.

60. The court held that Article 412 § 1 of the CCrP (see paragraph 49 above), under which the time-limit to lodge an appeal started running from the date of pronouncement, was constitutional provided that it was guaranteed that the appellant was served the decision subject to appeal within the period prescribed by law and that the time-limit missed for reasons beyond the appellant's control, such as a delay in serving the decision, was restored *de jure*.

C. Constitutional Court Decision of 9 February 2016 on the conformity of, *inter alia*, Article 156 § 1 of the CAP with the Constitution (UqN-1254)

61. In this decision, the Constitutional Court noted that the provisions of the CCrP, examined in its decisions of 16 October 2012 (UqN-1052) and 18 December 2012 (UqN-1062), were in substance equivalent to, *inter alia*, Article 156 § 1 of the CAP (see paragraph 21 above). It held that its legal position expressed in those earlier decisions also applied to that Article.

D. Constitutional Court Decision of 28 June 2016 on the conformity of, *inter alia*, Article 207 § 1 of the CCP with the Constitution (UqN-1290)

62. In this decision, the Constitutional Court noted that the provisions of the CCrP examined in its decisions of 16 October 2012 (UqN-1052) and 18 December 2012 (UqN-1062) were in substance equivalent to Article 207 § 1 of the CCP (see paragraph 34 above). It held that its legal position expressed in those earlier decisions equally applied to that Article.

E. Constitutional Court Decision of 8 December 2017 on the conformity of, *inter alia*, Article 379 § 1 (1) of the CCrP with the Constitution (UqN-1394)

63. In this decision, the Constitutional Court was called upon to examine, *inter alia*, the constitutionality of Article 379 § 1 (1) of the CCrP, which provided that the time-limit for an appeal to be lodged against judgments of first-instance courts started running from the date of their pronouncement (see paragraph 22 above). The Constitutional Court conducted its examination in the light of its earlier decisions in criminal proceedings, taking into account the similarities in the underlying rules. It highlighted inconsistencies in judicial practice, observing that, while the appeal in the case before it had been declared inadmissible despite being lodged within one month of the decision being served, there were four cases from 2014 to 2015 where there had been delays in the service of judgments, and appeals lodged within one month of being served had been admitted for examination.

64. The Constitutional Court held that in all cases where the court had failed to make its judicial decision available to the party concerned or to serve it on him or her within the time-

limit prescribed by law, the full statutory time-limit should apply, without accounting for any period required to make the judicial decision available to the party, whether by physical delivery, electronic means or otherwise.

65. Lastly, the Constitutional Court concluded that the provision was constitutional provided that it guaranteed that the full statutory time-limit for lodging an appeal was available to the appellant without accounting for any delays caused by making the judgment available to the party concerned.

THE LAW

I. JOINDER OF THE APPLICATIONS

66. 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 6 § 1 OF THE CONVENTION

67. The applicants complained that they had been denied access to superior courts for the examination of their appeals, contrary to Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

68. The Court must first ascertain whether Article 6 § 1 is applicable and whether the complaints satisfy admissibility requirements.

69. Although the applicability of Article 6 is not in dispute, the Court considers it necessary to address this issue of its own motion in relation to application no. 24649/16. For the reasons set out below, it concludes that the proceedings against the applicant in that application involved the determination of a criminal charge.

70. The concept of a “criminal charge” in Article 6 § 1 is an autonomous one (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 122, 6 November 2018). The Court’s established case-law sets out three criteria, commonly known as the “Engel criteria”, to be considered in determining whether or not there was a “criminal charge” (see *Engel and Others v. the Netherlands*, 8 June 1976, § 82, Series A no. 22, and *Gestur Jónsson and Ragnar Halldór Hall v. Iceland* [GC], nos. 68273/14 and 68271/14, § 75, 22 December 2020). The first of these criteria is the legal classification of the offence under national law, the second is the very nature of the offence, and the third is the degree of severity of the penalty that the person concerned risks incurring. The second and third criteria are alternative, and not necessarily cumulative. This, however, does not exclude a cumulative approach where separate analysis of each criterion does not make it possible to reach a clear conclusion as to the existence of a criminal charge (see, among other authorities, *Ezeh and Connors v. the United Kingdom* [GC], nos. 39665/98 and 40086/98, § 82, ECHR 2003-X; *Jussila v. Finland* [GC], no. 73053/01, §§ 30-31, ECHR 2006-XIV; and *Gestur Jónsson and Ragnar Halldór Hall*, cited above, §§ 75, 77-78). The fact that an offence is not punishable by imprisonment is not by itself decisive for the purposes of

the applicability of the criminal limb of Article 6 of the Convention since, as the Court has pointed out on numerous occasions, the relative lack of seriousness of the penalty at stake cannot deprive an offence of its inherently criminal character (see *Ramos Nunes de Carvalho e Sá*, cited above, § 122; *Gestur Jónsson and Ragnar Halldór Hall*, cited above, § 78; and *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 67, 3 November 2022).

71. As to the domestic classification, the Court has previously examined the sphere defined in certain legal systems, including in Armenia, as “administrative” and found that it embraces some offences that are criminal in nature but too trivial to be governed by criminal law and procedure. In any event, the indication afforded by national law is not decisive for the purpose of Article 6 and the very nature of the offence in question is a factor of greater importance (see *Galstyan v. Armenia*, no. 26986/03, §§ 57-58, 15 November 2007).

72. With regard to the nature of the offence, the Court observes that Article 180.1 § 15 of the CAO (see paragraph 53 above), which proscribes the offence of disobeying a lawful police order imputed to the applicant, applies broadly to the entire population. Moreover, the sanction imposed on the applicant was not intended to secure pecuniary compensation but served purely punitive and deterrent purposes (see paragraph 51 above). These factors are characteristic of criminal penalties (see *Galstyan*, cited above, § 58; *Kasparov and Others v. Russia*, no. 21613/07, §§ 42-43, 3 October 2013; *Mikhaylova v. Russia*, no. 46998/08, §§ 59 and 64-65, 19 November 2015).

73. The criminal nature of the offence is also evidenced by the fact that the CAO (see paragraph 52 above) contains provisions relating to such matters as mitigating and aggravating circumstances (see *Ziliberberg v. Moldova*, no. 61821/00, § 34, 1 February 2005). Additionally, the fact that the applicant was taken to a police station (see paragraph 12 above) further emphasises the criminal nature of the offence.

74. These considerations are sufficient to establish that the offence for which the applicant was responsible can be classified as “criminal” for the purposes of the Convention. It follows that Article 6 applies.

75. With respect to the other applications, the Court observes that the proceedings concerned the applicants’ civil rights and obligations, which renders Article 6 applicable.

76. The Court further notes that the applicants’ complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. Accordingly, the complaints must be declared admissible.

B. Merits

1. The applicants

(a) Application no. 15736/16

77. The applicant in application no. 15736/16 argued that the Court of Cassation had ignored the fact that his appeal on points of law had included a note asserting that the appeal had been lodged within one month of the Civil Court of Appeal’s decision being served. The note had also included a request to restore the missed time-limit on the basis of the Constitutional Court’s decision of 16 October 2012 (*UQΩ-1052*). Although his request had been titled “A note”,

the applicant maintained that this did not justify the Court of Cassation's formalistic approach in disregarding it. He further argued that the Constitutional Court's decision, although issued in the context of the CCrP, served as a basis for all branches of law and had required that the time-limit be restored.

(b) Application no. 24649/16

78. The applicant in application no. 24649/16 contended that he had submitted a request to restore the time-limit when he had resubmitted his appeal on points of law on 9 September 2015. He argued that the request concerned the time-limit for appealing against the Administrative Court of Appeal's decision of 26 June 2015, rather than the three-day time-limit set by the Court of Cassation on 26 August 2015 for correcting the procedural mistakes and resubmitting the appeal. The applicant maintained that he had not missed the three-day time-limit, as 5 and 6 September 2015 had been non-working days and, under the law, had been excluded from the calculation of the time-limit. He therefore had had no reason to request the restoration of the three-day time-limit. Moreover, the Court of Cassation had acted in a formalistic manner. In accordance with the Constitutional Court's decision of 16 October 2012 (*U?N-1052*), the time-limit for his appeal had had to be restored; even though the Constitutional Court's decision had been taken in the context of the CCrP, it served as a basis for all branches of law.

(c) Application no. 25718/16

79. The applicant in application no. 25718/16 argued that the judgment of the Ararat Regional Court of 24 June 2015 had been served on her on 6 July 2015, and that she had lodged her appeal against it on 6 August 2015. She maintained that, in accordance with the Constitutional Court's decision of 16 October 2012 (*U?N-1052*), her appeal had been lodged within the prescribed one-month time-limit. However, the Civil Court of Appeal had relied on false information in its decision of 27 August 2015 whereby it had refused her request to restore the time-limit and had declared her appeal inadmissible as lodged out of time. In particular, it had erroneously stated that the judgment had been served on her on 1 July 2015 and that the appeal had been lodged on 7 August 2015. Although she had subsequently resubmitted her appeal and the Civil Court of Appeal had admitted it for examination, the same court ultimately dismissed the appeal without examining it in substance.

2. The Government

80. The Government submitted that the applicants' right of access to a court had not been violated.

81. In relation to application no. 15736/16, the Government argued that the applicant had failed to submit a request to restore the time-limit. Instead, he had included a note in his appeal suggesting that it had been submitted within the relevant time-limit. The Government maintained that, under domestic law, a formal request was required for the court to decide on restoring a missed time-limit.

82. Regarding application no. 24649/16, the Government acknowledged that the applicant had initially requested the restoration of the missed time-limit when he had submitted his first appeal on points of law. However, the appeal had been unsigned, which had prevented the

Court of Cassation from examining his request. After the Court of Cassation had returned his appeal on procedural grounds, granting him three days to correct the procedural mistakes, the applicant had resubmitted his appeal but had failed to submit a renewed request for the restoration of the missed time-limit.

83. As regards application no. 25718/16, the Government conceded that the Civil Court of Appeal had erroneously indicated incorrect dates in its decision of 27 August 2015. They maintained, however, that the applicant had not been deprived of her right to a court. Following the Civil Court of Appeal's decision declaring her appeal inadmissible, the applicant had resubmitted her appeal against the judgment of the Ararat Regional Court. The Government asserted that the Civil Court of Appeal had accepted that resubmitted appeal, examined it on the merits and delivered a decision on 11 December 2015.

84. Lastly, the Government argued that the Constitutional Court's decision of 16 October 2012 (*U?N-1052*) concerned the restoration of time-limits in criminal proceedings and did not apply to civil or administrative cases.

3. *The Court's assessment*

(a) General principles

85. The right of access to a court was established as an aspect of the right to a fair hearing guaranteed by Article 6 § 1 of the Convention in *Golder v. the United Kingdom* (21 February 1975, §§ 28-36, Series A. no. 18). In that case, the Court found the right of access to a court to be an inherent aspect of the safeguards enshrined in Article 6, referring to the principles of the rule of law and the avoidance of arbitrary exercise of power which underlay much of the Convention.

86. The right of access to a court is not absolute and may be subject to limitations that do not restrict or reduce the access left to the person concerned in such a way or to such an extent that the very essence of the right is impaired. A limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (*ibid.*, with further references).

87. The principles applicable to the examination of restrictions on access to superior courts have been summed up by the Court in the case of *Zubac v. Croatia* ([GC], no. 40160/12, §§ 78-86, 5 April 2018). When it rules on the proportionality of such restrictions, the Court pays particular attention to three criteria: (i) the foreseeability of the restriction; (ii) the question of who should bear the adverse consequences of errors made during the proceedings (*ibid.*, §§ 90-95); and (iii) whether the restrictions in question can be regarded as "excessive formalism" (*ibid.*, §§ 96-99; see also *Willems and Gorjon v. Belgium*, nos. 74209/16 and 3 others, § 80, 21 September 2021).

88. Lastly, the Court reiterates that the parties must be able to avail themselves of the right to bring an action or to lodge an appeal from the moment they can effectively apprise themselves of court decisions imposing a burden on them or which may infringe their legitimate rights or interests. Otherwise, the courts could substantially reduce the time for lodging an appeal or even render any appeal impossible by delaying service of their decisions. As a means of communication between the judicial body and the parties, service makes the court's decision

and the grounds for it known to the parties, thus enabling them to appeal if they see fit (see *Miragall Escolano and Others v. Spain*, nos. 38366/97 and 9 others, § 37, ECHR 2000-I).

(b) Application of the above principles to the present case

89. The Court's task in the present case is to assess whether the decisions of the domestic courts impaired the very essence of the applicants' right of access to a court. To this end, it must first determine whether the restriction on the applicants' access to superior courts pursued a legitimate aim and, if so, whether it was proportionate to that aim.

(i) Legitimate aim

90. The rights of all three applicants have been restricted essentially on the grounds that they had missed the one-month time-limit for lodging an appeal. The Court reiterates that the rules governing time-limits for appeals are intended to ensure a proper administration of justice (see *Miragall Escolano and Others*, cited above, § 36). It therefore considers that the restriction on the applicants' access to courts pursued a legitimate aim.

(ii) Proportionality

(α) Applications nos. 15736/16 and 24649/16

91. A central issue in applications nos. 15736/16 and 24649/16 is the timing of the service of the decisions subject to appeal and the implications for the time-limit for appeal. In both applications, decisions subject to appeal were served several days after their pronouncement. In application no. 15736/16 the applicant received the decision three days after its pronouncement (see paragraphs 8-9 above), while in application no. 24649/16 the applicant received it four days after its pronouncement (see paragraph 16 above). Both applicants lodged their appeals on points of law within one month, counted from the date on which the contested decisions were served (see paragraphs 10 and 17 above).

92. The Court of Cassation declared the appeals inadmissible for being lodged outside the one-month time-limit, which it calculated from the date of pronouncement rather than the date of service. Furthermore, the Court of Cassation stated that the applicants had not submitted requests to restore the missed time-limit (see paragraphs 11 and 20 above).

93. In assessing whether the restriction on the applicants' access to the Court of Cassation was proportionate, the Court will take into account, in so far as relevant, the proportionality criteria developed in its case-law (see paragraph 87 above).

– The requirement that the restriction be foreseeable

94. The Court will first assess whether the application of the time-limit for an appeal on points of law was foreseeable from the point of view of the applicants, having regard to the domestic procedural rules, the relevant Constitutional Court decisions and the particular circumstances of the case (see *Zubac*, cited above, § 87; *Osu v. Italy*, no. 36534/97, § 35, 11 July 2002; and *Çela v. Albania*, no. 73274/17, § 28, 29 November 2022).

95. Under the statutory procedural rules, the Court of Appeal's decisions on the merits of a case entered into force within one month from the date of pronouncement and were subject to appeal within that period. The same rule was prescribed by the CCP (see paragraphs 35 and 37

above), the CAP (see paragraphs 41-42 above) and the CCrP (see paragraphs 47 and 49 above). The Court has previously held that such a rule was not in itself in violation of Article 6 § 1 of the Convention, provided that it was accompanied by sufficient guarantees, such as the timely service of judicial decisions and the possibility of requesting a restoration of the time-limit for appeal, enabling the appellants to enjoy effective access to the appellate court (see, *mutatis mutandis*, *Mamikonyan v. Armenia*, no. 25083/05, § 30, 16 March 2010).

96. Between 2012 and 2017, in proceedings to which the applicants were not parties, the Constitutional Court delivered a series of decisions on the constitutionality of the rules concerning time-limits for appeals in criminal, administrative and civil proceedings.

97. In its decision of 16 October 2012 the Constitutional Court reviewed the constitutionality of the rules governing time-limits for appeals in criminal cases. As part of its reasoning the court stated that time-limits for appeals had to begin when the party had a genuine opportunity to become acquainted with the judicial decision subject to appeal. However, that was not its main conclusion. Its main finding, which was later reiterated in its subsequent decisions, was that calculating the time-limit for appeal from the date of pronouncement was constitutional, provided that the Criminal Court of Appeal's decision was actually served on the party concerned (or made available to him or her) within the period prescribed by law. Notably, while the statutory provisions only specified the period for sending a decision (three days from pronouncement in criminal cases), the Constitutional Court held that the constitutionality of those provisions depended on the actual service of the decision within that period, not merely its dispatch. Furthermore, it held that if the time-limit for appeal had been missed because the judgment or decision had not been served within the period prescribed by law, the missed time-limit had to be restored *de jure*, without judicial discretion (see paragraphs 54-58 above).

98. In its decision of 18 December 2012 the Constitutional Court reiterated its conclusions in the context of appeals against decisions on the merits (see paragraphs 59-60 above). Although those rulings arose in criminal cases, the Constitutional Court later confirmed that the same principles applied to equivalent rules in civil and administrative proceedings (see paragraphs 61-62 above).

99. In the present applications, the decisions subject to appeal were not served on the applicants within the period prescribed by law, that is by the day following the pronouncement in civil and in administrative proceedings (see paragraphs 36 and 40 above). As noted above, in application no. 15736/16 the decision was served three days after its pronouncement (see paragraphs 8-9 above), and in application no. 24649/16 it was served four days after its pronouncement (see paragraph 16 above). Nothing suggests that the decisions were made available to the applicants at earlier dates through other means, such as electronically. Thus the Constitutional Court's condition for the time-limit starting to run from the pronouncement of the decision – in other words, the timely service of the decision – was not satisfied.

100. In those circumstances, it was not unreasonable for the applicants to expect that the time-limit for appeal would be restored and that their appeals would be admitted for examination. In any event, it was not sufficiently clear to the applicants that lodging an appeal within one month from the date of service of the contested decisions, rather than the date of pronouncement, would render their appeals inadmissible. This conclusion is further reinforced

by the Constitutional Court's observation in its decision of 8 December 2017, highlighting inconsistent judicial practices. Notably, in several cases from around the same period as the applicants' appeals (from 2014 to 2015), appeals lodged within one month of service had been admitted for examination (see paragraph 63 above). In the light of the above, the Court concludes that the application of the time-limit in the cases of the applicants concerned was not foreseeable.

101. While the Court has previously held that the calculation of the time-limit for appeal from the date of the pronouncement of the decision was not in itself in violation of Article 6 § 1 of the Convention provided that it was accompanied by sufficient guarantees (see paragraph 95 above), it observes that this method of calculating the time-limit, in practice, has been susceptible to creating uncertainty for the parties involved.

– *The criterion of "excessive formalism"*

102. The Court will now examine whether the Court of Cassation's approach in concluding that the applicants had failed to request a restoration of the one-month time-limit amounted to "excessive formalism".

103. In application no. 15736/16, the applicant's appeal contained a paragraph titled "A note", in which he stated that the appeal was being submitted within the relevant time-limit, referencing the Constitutional Court's decision of 16 October 2012. The applicant also indicated that the decision of the Civil Court of Appeal had been served on him on 3 July 2015, providing evidence of service, and explicitly requested the restoration of the one-month time-limit for appeal (see paragraph 10 above). While the Government argued that the applicant had failed to submit a request for restoration, instead merely suggesting that the appeal had been timely, the Court observes that this argument does not reflect the essence of the applicant's submission. Despite some apparent inconsistency between the applicant's claim that the appeal was within the time-limit and his request to restore it, the applicant's submissions clearly reflected his intention to seek the restoration of the time-limit. Furthermore, he provided both justification for his request and the relevant evidence to support it. The applicant may therefore be considered to have made, at least in substance, a request to restore the time-limit. To hold otherwise would, in the Court's view, be excessively formalistic (see, *mutatis mutandis*, *Georgiy Nikolayevich Mikhaylov v. Russia*, no. 4543/04, § 56, 1 April 2010).

104. In application no. 24649/16 the applicant's initial appeal was returned for the correction of procedural mistakes, and he was given three days to resubmit it. After receiving the returned appeal on 4 September 2015, the applicant resubmitted the corrected version on 9 September 2015, complying with the three-day time-limit, which excluded 5 and 6 September 2015 as non-working days (see paragraphs 19 and 39 above). At the same time, the applicant included a request to restore the missed time-limit and provided proof of service of the contested decision. Upon examining the applicant's appeal submitted anew, the Court of Cassation found that the applicant had failed to submit a request for the restoration of the one-month time-limit, finding that his request to that effect only concerned the three-day time-limit given for correcting the procedural mistakes and resubmitting the appeal. The Court observes, however, that the applicant had not missed the three-day time-limit and, therefore, had no reason to request its restoration. It is unclear why the Court of Cassation implicitly suggested otherwise. In any

event, the decisive point is that the applicant clearly indicated his intention to seek the restoration of the time-limit, providing the grounds for it and the supporting evidence. He can therefore be considered to have made a request to restore the time-limit at least in substance, which the Court of Cassation disregarded on technical grounds.

105. Based on the above, the Court concludes that the Court of Cassation adopted an excessively formalistic approach in disregarding the applicants' requests for the restoration of the time-limit, as it failed to adequately address them in substance.

– *Conclusion (applications nos. 15736/16 and 24649/16)*

106. In the light of the foregoing, the Court finds that the applicants could not have reasonably foreseen the manner in which the time-limit for lodging an appeal would be applied. Furthermore, the Court of Cassation failed to adequately consider these circumstances and disregarded the substance of the applicants' requests, thereby disproportionately restricting their access to that court. Consequently, the decisions declaring the applicants' appeals inadmissible impaired the very essence of the applicants' right of access to a court.

107. There has therefore been a violation of Article 6 § 1 of the Convention.

(β) Application no. 25718/16

108. In application no. 25718/16 the judgment of the Ararat Regional Court of 24 June 2015 was sent to the applicant on 2 July 2015 and was received by her on 6 July 2015, that is twelve days after its pronouncement (see paragraph 22 above).

109. The applicant lodged her appeal with the Civil Court of Appeal on 6 August 2015, that is within one month of the contested judgment being served. However, on 27 August 2015 the Civil Court of Appeal declared her appeal inadmissible. In doing so, it essentially noted that the applicant had had to lodge her appeal within one month of the date of service of the contested judgment, but incorrectly stated that the applicant had received the contested judgment on 1 July 2015 and had lodged her appeal on 7 August 2015 (see paragraphs 23-24).

110. The applicant resubmitted her appeal, explaining that she had not missed the time-limit. The Civil Court of Appeal admitted it for examination. However, on 11 December 2015 it dismissed the applicant's appeal, referring to the findings in its earlier inadmissibility decision as a legal obstacle to examining the appeal (see paragraph 29 above).

111. Although the Government admitted that the Civil Court of Appeal had mistakenly indicated incorrect dates, they argued that the applicant's subsequent appeal had been admitted and examined on the merits. However, the right of access to a court includes not only the right to institute proceedings but also the right to obtain a determination of the dispute by a court (see *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 86, 29 November 2016). In this case, the Civil Court of Appeal did not address any of the grounds of the applicant's appeal. Instead, it relied solely on its earlier inadmissibility decision, which itself was based on incorrect information. Furthermore, it did not mention, let alone substantiate, any procedural errors on the part of the applicant.

112. It is therefore clear that the applicant's right of access to the Civil Court of Appeal was restricted in an unforeseeable manner. Furthermore, she was made to bear an excessive burden in respect of procedural errors made by the Civil Court of Appeal (see *Zubac*, cited above, § 90).

113. In the light of the foregoing, the Court concludes that the applicant's right of access to a court was restricted in such a way and to such an extent that the very essence of the right was impaired.

114. There has therefore been a violation of Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

115. 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."

116. "Omissis" (the applicant in application no. 24649/16) did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

A. Damage

117. "Omissis" "Omissis" and "Omissis" (the applicants in applications nos. 15736/16 and 25718/16 respectively) each claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

118. The Government contended that the claims in applications nos. 15736/16 and 25718/16 were excessive. They further submitted that the finding of a violation would, in itself, constitute sufficient just satisfaction for any non-pecuniary damage in both applications.

119. Deciding on an equitable basis, the Court awards EUR 3,600 to each applicant in applications nos. 15736/16 and 25718/16 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

120. "Omissis" (the applicant in application no. 15736/16) claimed EUR 6,454 as reimbursement for legal services at the domestic level, submitting copies of legal services agreements for representation before the first-instance court and the Civil Court of Appeal. The Government contested the claim, noting that no agreement was provided for legal services before the Court of Cassation. The Court reiterates that it may award the applicant the costs incurred domestically for the prevention or redress of the violation of the Convention (see *Vegotex International S.A.*, cited above, § 167; *Papon v. France*, no. 54210/00, § 115, ECHR 2002-VII; and *Dos Santos Calado and Others v. Portugal*, nos. 55997/14 and 3 others, § 156, 31 March 2020). However, the Court does not consider it necessary to order the reimbursement of the costs and expenses incurred during the proceedings before the lower courts because those proceedings were incapable of preventing or redressing the violation found on account of the lack of access to the Court of Cassation. The Court accordingly rejects this claim.

121. “Omissis” (the applicant in application no. 25718/16) claimed EUR 572 for legal services at the domestic level, submitting a legal services agreement whereby she undertook to pay 200,000 Armenian drams for legal representation in the domestic proceedings. The Government considered that the amount claimed was unsubstantiated and exaggerated. Regard being had to the documents in its possession and the criteria established in its case-law, as well as the considerations set out in the preceding paragraph, the Court considers it reasonable to award EUR 400 to the applicant in application no. 25718/16 for costs and expenses, plus any tax that may be chargeable to her.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 3,600 (three thousand six hundred euros) each to “Omissis” and “Omissis”, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 400 (four hundred euros) to “Omissis”, plus any tax that may be chargeable to her, 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;

5. *Dismisses* the remainder of the applicants’ claims for just satisfaction.

Done in English, and notified in writing on 15 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar

Mattias Guyomar President