



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

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FIFTH SECTION

Application no. 41094/20
Lilit MARTIROSYAN
against Armenia
lodged on 9 September 2020
communicated on 10 July 2026

SUBJECT MATTER OF THE CASE

The applicant is the president of a human rights organisation advocating for the rights of the transgender community.

On 5 April 2019 she participated in parliamentary hearings concerning National Human Rights Agenda within the framework of the Universal Periodic Review. She delivered a speech addressing issues of discrimination, hatred and harassment faced by transgender persons in Armenia. Following her speech, the applicant was subjected to threats and hateful comments online, as were transgender persons as a group.

On 6 April the applicant filed a criminal complaint against two individuals. The first, K.K., had delivered food to the applicant and, having recognised her from the speech that had by then gone viral, subsequently published her home address on social media and stated that he would provide her telephone number to anyone upon request. The second, E.M., the leader of a paramilitary group, published a video containing hateful remarks directed at transgender and homosexual persons, criticised the parliamentarians who had provided the applicant with a platform to deliver her speech, and stated:

“Right now you cannot imagine the extent of our rage toward them [transgender persons]. Do not turn us into killers. If we suddenly finish off one of them, don’t ask why it turned out like this.”

On 16 April 2019 the police officer responsible for the inquiry decided not to institute criminal proceedings based on the applicant's report. He relied in particular on K.K.'s statement that social media account on which the applicant's address had been disseminated did not belong to him and that he had not been behind that publication. As for E.M.'s video, the threats therein could not be considered real since E.M. had not taken any steps towards carrying them out.

The applicant challenged that decision before the prosecutor. On 13 May 2019 the prosecutor upheld it, finding that a person's address did not constitute confidential data under domestic law and that, accordingly, Article 144 of the Criminal Code, as in force at the material time, criminalising the disclosure of confidential information relating to private and family life, was not applicable in the applicant's case. As regards E.M.'s threats, they were neither concrete nor real, and there were no objective grounds for the applicant to fear that they would materialise. The applicant's subsequent judicial appeals were unsuccessful. She lodged an appeal on points of law. She challenged, *inter alia*, the prosecutor's and the lower courts' finding that one's address did not constitute confidential information. In particular, she argued that, although her registered address had been published on the website of the Central Electoral Commission pursuant to domestic practice, her residential address, where she had been living at the material time, had not been publicly available and that it was this address that had been disseminated by K.K.

On 17 January 2020 the Court of Cassation returned the applicant's appeal on points of law instructing her to send its copy to K.K. and E.M. The applicant refused to do so referring to Article 407 § 2.1 of the former Criminal Code of Procedure (in force until 1 July 2022), according to which, as far as relevant, the copy of the appeal should be sent to the participants of the proceedings except for the investigator and the inquiry body. The applicant claimed that according to the procedural law, the implicated persons were not deemed participants of the proceedings. On 28 February 2020 the Court of Cassation concluded that the error indicated in its initial decision had not been rectified and left the appeal without examination. That decision was served on the applicant on 9 March 2020.

The applicant complains under Articles 3 and 8 of the Convention about the authorities' failure to investigate effectively the threats, harassment and humiliation to which she had been subjected due to her sexual orientation and gender identity as well as the dissemination of her address. She further complains of the Court of Cassation's dismissal of her appeal on points of law. Lastly, the applicant complains of the lack of an effective domestic remedy for her Convention complaints with reference to Article 13 of the Convention.

QUESTIONS TO THE PARTIES

1. Did the applicant exhaust the domestic remedies with regard to her complaints under Articles 3 and 8 of the Convention?

2. Has there been a violation of the positive obligations inherent in Articles 3 and/or 8 of the Convention on account of the alleged failure by the authorities to conduct an effective investigation into the applicant's allegations of hate speech, threats and breach of private life motivated by hatred against gender and sexual minorities (see *Beizaras and Levickas v. Lithuania*, no. 41288/15, §§ 106-11 and 116, 14 January 2020; *Association ACCEPT and Others v. Romania*, no. 19237/16, §§ 101-103 and 114, 1 June 2021; *Samoylova v. Russia*, no. 49108/11, § 63, 14 December 2021; *Oganezova v. Armenia*, nos. 71367/12 and 72961/12, §§ 79-86, 17 May 2022; and *Bazhenov and Semkin v. Russia*, nos. 8825/22 and 19130/22, §§ 69-71, 73 and 77, 4 February 2025)?

3. Did the domestic authorities discharge their positive obligation under Articles 3 and/or 8 of the Convention to effectively protect the applicant from hate speech, hatred motivated threats and breach of private life (see *Oganezova*, as cited above, §§ 119-21, and *Nepomnyashchiy and Others v. Russia*, nos. 39954/09 and 3465/17, §§ 58-59 and 76, 30 May 2023)?

4. Has there been a violation of Articles 3 and/or 8 of the Convention on account of the Court of Cassation's dismissal of the applicant's appeal on points of law?

5. Did the applicant have an effective remedy at her disposal for her Convention complaints, as required by Article 13 of the Convention?

The Government are invited to submit a full copy of the case file related to the applicant's criminal complaint.