



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

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FIFTH SECTION

Application no. 33179/19
Natalya JILAVYAN and Henrik VARDANYAN
against Armenia
lodged on 11 June 2019
communicated on 26 August 2026

SUBJECT MATTER OF THE CASE

The first applicant¹ was the second applicant's mother. On 4 June 2017 the first applicant lodged a criminal complaint with the police alleging that she and her son, the second applicant, had been physically assaulted and humiliated by their neighbours.

On 14 June 2017 criminal proceedings were instituted based on the first applicant's complaint on account of battery (Article 118 of the former Criminal Code in force until 1 July 2022). During the investigation the second applicant refused to give statement. The first applicant stated that on 4 June 2026 at around 3 p.m. she had seen their neighbours, S.S. and his son L.S., assaulting the second applicant outside their building. When she intervened, they, together with several other individuals, assaulted her as well. She further alleged that the neighbours had repeatedly humiliated the second applicant on account of his epilepsy.

S.S. stated that the altercation had begun after the first applicant had slapped his nephew. He denied that anyone had assaulted the applicants, alleging that they had fabricated the incident because they suffered from mental disorders. The witnesses gave statements to the same effect.

¹ Ms Jilavyan died after the introduction of the application before the Court. After her death, her son – the second applicant – requested to pursue the application in her stead. However, for ease of reference, Ms Jilavyan will be referred to as “the first applicant” throughout this text.

Forensic medical examinations were ordered to assess the damage inflicted to the applicants' health. The ensuing report identified a number of scratches and ecchymoses on various parts of the second applicant's body and a contused wound of the mid-parietal area, which were classified as having caused light damage to the health. The first applicant's forensic medical examination revealed bilateral sensorineural hearing loss of 1st grade, which was found not to be related to the alleged assault. She maintained that the condition had resulted from blows to her head and left ear. Both expert reports referred to the medical records of 4 June 2017 documenting the applicants' requests for medical assistance.

On 15 September 2017 relying on statements by some of the applicants' neighbours and the building manager that the second applicant had displayed aggressive behaviour and posed a danger to others, and that the first applicant had incited him, the investigator ordered a combined forensic psychiatric and psychological examination of the applicants.

On 21 November 2017 the ensuing report established that the first applicant did not suffer from any mental disorder and was capable of understanding the nature and consequences of her actions. Her psychological state allowed her to participate in the investigative actions and court hearings. The report further stated that she displayed accentuation of histrionic personality traits with a complainant behavioural tendency. According to the experts, persons with such traits had difficulty distinguishing between fantasy and reality, exhibited a pathological tendency to lie and to believe their own lies. They concluded that the first applicant was capable of perceiving and accurately recounting the circumstances of the case. At the same time, she had a tendency to exaggerate the facts, thereby blurring the distinction between fantasy and reality.

As regards the second applicant, he refused to undergo an examination. The experts had a brief exchange with him in the corridor during which he refused to answer their questions. They also had access to his diagnosis provided by the hospital where he had been treated. The expert panel issued a report finding that the second applicant suffered from active symptomatic post-ischaemic epilepsy since childhood, as well as post-ischaemic and post-epileptic encephalopathy accompanied by personality changes typical of epilepsy and a reduction in intellectual functioning. It concluded that the second applicant was not capable of perceiving and accurately recounting the circumstances of the case or the nature and consequences of his actions. It further noted that persons suffering from epilepsy were at times prone to aggressive behaviour and that, in his current mental state, the second applicant was unable to participate in investigative measures and court hearings.

The first applicant complained that neither she nor her son had been informed of the nature of the examination beforehand, having merely been summoned to attend an unspecified investigative measure. The expert reports

were not based on proper examination of her son and herself. She requested to order a new examination in respect of her and her son as well as S.S. and L.S. That request was dismissed.

On 28 February 2018 the investigator decided to suspend the criminal proceedings on the grounds that the person who had inflicted damage to the second applicant's health could not be established. The first applicant unsuccessfully challenged that decision before the prosecutor and subsequently the domestic courts. On 25 June 2018 she requested the copy of the case file which was rejected. On 6 December 2018 the Court of Cassation declared the first applicant's appeal on points of law inadmissible for lack of merit. The decision was served on the applicants on 11 December 2018.

In 2022 the first applicant passed away. After the first applicant's death, her son, the second applicant, requested to pursue the application in her stead.

The applicants complained under Articles 3 and 8 of the Convention of the ineffectiveness of the investigation into the alleged violence against them.

QUESTION TO THE PARTIES

Having regard to the positive obligations enshrined in Articles 3 and/or 8 of the Convention, was the investigation into the alleged violence against the applicants of 4 June 2017 adequate for the purposes of those provisions (see *X and Others v. Bulgaria* [GC], no. 22457/16, §§ 184-91, 2 February 2021; *R.B. v. Hungary*, no. 64602/12, §79, 12 April 2016; and *V.K. v. Russia*, no. 68059/13, § 185, 7 March 2017) ?

The Government are requested to submit a full copy of the file concerning the criminal case in question, with the exception of the materials already submitted by the applicants.

The second applicant is requested to submit a copy of an authentic document issued by the domestic authorities certifying that he is the first applicant's legal heir.