



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

FIFTH SECTION

CASE OF ANNA POGHOSYAN v. ARMENIA

(Application no. 79920/17)

JUDGMENT

Art 6 § 1 (civil) • Objectively justified doubts as to the impartiality of the Civil Court of Appeal, which dismissed the applicant's appeal, on account of disciplinary sanctions previously imposed on two members of the bench after a complaint by her husband • Judges in question constituted a majority of the bench and one of them presided over it • Examination of the recusal request by the judges concerned solely from the standpoint of the subjective test of impartiality • Failure to thoroughly assess and address the applicant's arguments concerning bias, including the close family link between her and her husband, in accordance with the criteria set out in Art 6 § 1

Prepared by the Registry. Does not bind the Court.

STRASBOURG

22 October 2026

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 Anna Poghosyan v. Armenia,

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

Kateřina řimáčková, *President*,

María Elósegui,

Gilberto Felici,

Diana Sârcu,

Mykola Gnatovskyy,

Vahe Grigoryan,

Nicholas Emiliou, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 79920/17) 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 an Armenian national, Ms Anna Poghosyan (“the applicant”), on 2 November 2017;

the decision to give notice to the Armenian Government (“the Government”) of the complaint concerning the alleged lack of impartiality of the Civil Court of Appeal and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated in private on 29 September 2026,

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

INTRODUCTION

1. The case concerns an alleged violation of Article 6 § 1 of the Convention on account of lack of impartiality of two judges of the Civil Court of Appeal.

THE FACTS

2. The applicant was born in 1977 and lives in Kotayk Region. She was represented by Mr Atanesyan, a lawyer practising in Yerevan.

3. The Government were represented by their former Agent, Mr Y. Kirakosyan, former Representative of the Republic of Armenia on International Legal Matters.

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

5. The applicant was sued by a private individual for non-payment of her debt under a loan agreement. On 26 May 2016 the First-Instance Court of General Jurisdiction of the Arabkir and Kanaker-Zeytun Districts of Yerevan (“the District Court”) found against the applicant.

6. On 27 June 2016 the applicant brought an appeal against the above-mentioned judgment and requested a deferral of payment of the State fee. On 10 August 2016 the Civil Court of Appeal admitted the appeal for examination and granted her request.

7. On 13 January 2017 the applicant filed an application requesting that two of the three judges on the bench withdraw from her case. In particular, she argued that Judges K.C. and T.N. were biased against her because on 3 June 2011 they had both been subject to disciplinary sanctions imposed by the then Council of Justice (a reprimand and a warning, respectively), following a complaint lodged by her husband, who had acted as counsel in one of their cases. Moreover, this had been the second disciplinary sanction imposed on Judge K.C., the president of the bench, within the space of a year, and a third sanction would have resulted in his dismissal. She stated that this fact, taken alone, would not necessarily have cast doubt on the judges' impartiality had she merely been a client of the lawyer who had initiated the disciplinary proceedings. However, given that she was the wife of that lawyer, she contended that objectively justified doubts as to their impartiality were inevitable.

8. On 16 January 2017 both judges adopted separate decisions dismissing the applicant's request for their recusal. They stated that, given the period of more than five months that had passed between the applicant becoming aware of the composition of the appellate court and submitting the recusal request, the request constituted an attempt to subject them to undue influence, pressure or intimidation, and that it was their duty to resist it. Referring to Article 91 § 1 (1) of the Judicial Code in force at the material time (see paragraph 15 below), the judges held that it provided for recusal "where a judge is biased against a party to the proceedings, that party's representative or defence counsel, or any other participant in the proceedings". They considered that ground for recusal to be inapplicable in their case. They pointed out, firstly, that the term "is biased" in the above-mentioned provision could not be interpreted as meaning "could have been biased", as legal provisions had to be interpreted in accordance with the literal meaning of the words and expressions used therein.

9. They further indicated that the applicant's doubts were merely theoretical and that they had never shown any sign of hostility or ill will likely to cast doubt on their impartiality within the meaning of the provision in question. On the contrary, they had granted the applicant's procedural requests, such as the deferral of payment of the State fee.

10. The judges further stated that the Judicial Code did not provide for the recusal of a judge for bias against family members of the parties to the proceedings, but only against participants in the proceedings. Moreover, had it not been for the applicant's request, they would have not known that her husband, who was referred to in the case material, was the same lawyer who had lodged a disciplinary complaint against them.

11. The judges' decisions refusing the applicant's recusal request were not amenable to appeal.

12. On 26 January 2017 the Civil Court of Appeal rejected the applicant's appeal as unsubstantiated and upheld the judgement of the District Court. It also rejected a request by the applicant to have a CD examined allegedly containing a recording of a conversation between her husband and the claimant (the applicant's procedural opponent) confirming that the applicant had paid the debt. In doing so, the appellate court concluded that the applicant had not been deprived of the opportunity to submit that evidence during the proceedings before the District Court.

13. On 25 February 2017 the applicant lodged an appeal on points of law raising, *inter alia*, the issue of the two judges' refusal to withdraw from her case.

14. On 3 May 2017 the Court of Cassation declared the applicant's appeal on points of law inadmissible for lack of merit. She was served with that decision on 10 May 2017.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LAW

15. The relevant provisions of the Judicial Code of 21 February 2007 provide as follows:

Article 89. Conduct of a judge

"1. In the discharge of his or her judicial duties, a judge shall:

...

(3) ... remain free from being influenced by the legislature and the executive, public officials and private individuals, private interests, public opinion, and any other undue influence, pressure, intimidation or interference; be free from fear of criticism; and earn a reputation for independence in the eyes of a reasonable and impartial observer."

Article 91. Self-recusal by a judge

"1. A judge shall be required to recuse himself or herself if he or she is aware of any facts or circumstances capable of giving rise to objectively justified doubts as to his or her impartiality in a particular case. Grounds for recusal shall include, *inter alia*, the following:

(1) where a judge is biased against a party to the proceedings, that party's representative or defence counsel, or any other participant in the proceedings."

16. The relevant provisions of the Code of Civil Procedure of 17 June 1998 provide as follows:

Article 21. Self-recusal by a judge

“1. The grounds for a judge’s self-recusal are provided in Article 91 of the Judicial Code of the Republic of Armenia.

...”

Article 22. Procedure for submitting a recusal request

“1. Where any of the grounds provided for in Article 21 of this Code exist, the judge shall be required to recuse himself or herself. The recusal request shall be reasoned.

2. A recusal request shall be submitted in writing and set out the grounds on which it is based.”

Article 23. Procedure for determining a recusal request

“...

3. Following examination of a recusal request, the judge shall recuse himself or herself or adopt a decision dismissing the request.”

Article 220.4. Violation or misapplication of the rules of procedural law

“...

2. A judicial act shall, in all circumstances, be set aside where:

(1) the case was examined by a court constituted unlawfully, including where it was examined by a judge who, pursuant to Article 91 of the Judicial Code of the Republic of Armenia, was required to recuse himself or herself.”

II. RELEVANT INTERNATIONAL MATERIAL

17. The relevant international material in relation to the impartiality of judges has been summarised in *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia* (no. 16812/17, § 224, 18 July 2019), which reads as follows:

“224. The Bangalore Draft Code of Judicial Conduct 2001 (hereinafter ‘the Bangalore Principles’) was adopted by the Judicial Group on Strengthening Judicial Integrity, and it was revised at the Round Table Meeting of Chief Justices held in The Hague in November 2002. The relevant principles contained therein read as follows:

VALUE 1: INDEPENDENCE

Principle: Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:

1.1 A judge shall exercise the judicial function independently on the basis of the judge’s assessment of the facts and in accordance with a conscientious understanding

of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

1.2 A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.

1.3 A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.

1.4 In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.

1.5 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.

1.6 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

VALUE 2: IMPARTIALITY

Principle: Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:

2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice.

2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

2.3 A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially ... [p]rovided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice. ...

VALUE 4: PROPRIETY

Principle: Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:

4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

4.2. As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office. ...

4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary. ...

4.8 A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.

4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties. ...

4.11 Subject to the proper performance of judicial duties, a judge may: ...

4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge; ...

4.13 A judge may form or join associations of judges or participate in other organisations representing the interests of judges. ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

18. The applicant complained under Article 6 § 1 of the Convention that she had not received a fair hearing by an impartial tribunal because Judges K.C. and T.N. of the Civil Court of Appeal had been biased against her husband and, consequently, against her. The relevant part of that provision reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law.”

A. Admissibility

19. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

20. The applicant maintained that the lack of impartiality on the part of the appellate court was demonstrated by its refusal to examine a crucial piece

of evidence, namely the recording of a conversation between her husband and the claimant in the civil proceedings (her procedural opponent). In her submission, that recording would have corroborated her account. She further argued that she had lodged her request for the judges' recusal during the hearing, rather than at an earlier stage, because that request would in any event have been examined at the hearing.

21. The Government submitted that the matter should be examined under the subjective test of impartiality and maintained that the applicant had failed to adduce any evidence capable of casting objectively justified doubts as to the impartiality of the judges concerned. The Government further reiterated the reasoning contained in the decisions of Judges K.C. and T.N. (see paragraphs 8-10 above).

2. *The Court's assessment*

(a) **General principles**

22. According to the Court's settled case-law, the existence of impartiality for the purposes of Article 6 § 1 must be determined according to (i) a subjective test, where regard must be had to the personal conviction and behaviour of a particular judge – that is, whether the judge held any personal prejudice or bias in a given case; and (ii) an objective test, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality (see, among other authorities, *Micallef v. Malta* [GC], no. 17056/06, § 93, ECHR 2009; *Morice v. France* [GC], no. 29369/10, § 73, ECHR 2015; and *Oleksandr Volkov v. Ukraine*, no. 21722/11, § 104, ECHR 2013).

23. In the vast majority of cases raising impartiality issues, the Court has focused on the objective test (see *Micallef*, cited above, § 95). However, there is no watertight division between subjective and objective impartiality since the conduct of a judge may not only prompt objectively held misgivings as to impartiality from the point of view of the external observer (objective test) but may also go to the issue of his or her personal conviction (subjective test) (see *Kyprianou v. Cyprus* [GC], no. 73797/01, § 119, ECHR 2005-XIII). Therefore, in some cases where it may be difficult to procure evidence with which to rebut the presumption of a judge's subjective impartiality, the requirement of objective impartiality provides a further important guarantee (see *Pullar v. the United Kingdom*, 10 June 1996, § 32, *Reports of Judgments and Decisions* 1996-III, and *Morice*, cited above, § 75).

24. Under the objective test, even appearances may be of a certain importance. What is at stake is the confidence which the courts in a democratic society must inspire in the public. Therefore, any judge in respect of whom there is a legitimate reason to fear a lack of impartiality must

withdraw (see, among other authorities, *Micallef*, § 98, and *Morice*, § 78, both cited above).

25. The Court further reaffirms that the existence of national procedures for ensuring impartiality, namely rules regulating the withdrawal of judges, is a relevant factor. Such rules manifest the national legislature's concern to remove all reasonable doubts as to the impartiality of the judge or court concerned and constitute an attempt to ensure impartiality by eliminating the causes for such concerns (see *Micallef*, cited above, § 99, and *Zahirović v. Croatia*, no. 58590/11, § 35, 25 April 2013). In addition to ensuring the absence of actual bias, they are directed at removing any appearance of partiality and so serve to promote the confidence which the courts in a democratic society must inspire in the public (see *Tsulukidze and Rusulashvili v. Georgia*, nos. 44681/21 and 17256/22, § 48, 29 August 2024).

(b) Application of those principles to the present case

26. In determining whether Judges K.C. and T.N. were impartial, as required by Article 6 § 1 of the Convention, the Court observes at the outset that there is nothing in the case file to suggest that they made any statements or conducted the proceedings in a manner that gave rise to doubts as to their personal prejudice against the applicant or her husband under the subjective test. In this regard, the Court reiterates that the personal impartiality of a judge must be presumed until there is proof to the contrary (see *Micallef*, § 94, and *Morice*, § 74, both cited above).

27. It remains to be determined whether, quite apart from the judges' personal conduct, there are ascertainable facts which may raise doubts as to their objective impartiality. In this connection, the Court observes that Judges K.C. and T.N. failed to thoroughly address the applicant's arguments concerning bias in accordance with the criteria set out in Article 6 § 1 of the Convention. In particular, they concluded that their withdrawal from the case would be required only if their bias against the applicant had been proven through hostile conduct or ill will towards her. In so doing, they examined the request for their recusal solely from the standpoint of the subjective test of impartiality within the meaning of the Court's case-law. They failed to consider whether, quite apart from their personal conduct, the composition of the bench was capable of giving rise to objectively justified doubts as to its impartiality in the eyes of an objective observer were they to remain on it (the objective test). The Court further notes that the judges' decisions, while adopted separately, contained almost identical, rather schematic reasoning. In addition, they relied heavily on the fact that the applicant's husband was not a party to the proceedings.

28. However, in the eyes of an objective observer, the close family link between the applicant and her husband, a person who had been at the origin of disciplinary sanctions against the judges, would be sufficient to raise doubts as to their objective impartiality (compare and contrast with *Rustavi 2*

Broadcasting Company Ltd and Others, cited above, §§ 360-63, where a challenge for bias was examined by the higher court's enlarged bench under both the subjective and objective tests in Article 6 § 1 of the Convention, with detailed reasons provided for its dismissal).

29. According to the Court's well-established case-law, the presence on a bench of even a single judge whose impartiality was itself "open to genuine doubt", may suffice to call into question the impartiality of the bench as a whole, since, in view of the secrecy of the deliberations, it may be impossible to ascertain the judge's actual influence on the outcome (see, among other authorities, *Morice*, cited above, § 89; *Mitrinovski v. the former Yugoslav Republic of Macedonia*, no. 6899/12, § 46, 30 April 2015; and *Stoimenovikj and Miloshevikj v. North Macedonia*, no. 59842/14, § 39, 25 March 2021). In the circumstances of the present case, the doubts as to the impartiality of the bench were all the more reinforced by the fact that the judges concerned constituted a majority of the bench and that one of them – K.C. – presided over it.

30. As regards the procedure in which the recusal request was examined and dismissed, the Court will not examine that aspect of impartiality as the applicant did not raise an argument in that regard (see *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 89-91, 1 June 2023). Nevertheless, it notes that domestic law did not appear to provide either for a recusal request to be determined by judges other than those whose impartiality had been challenged or, where such a request was decided by the judges concerned, for that decision to be subject to an ordinary appeal before a higher court (see, among other authorities, *A.K. v. Liechtenstein*, no. 38191/12, §§ 74-84, 9 July 2015; *Mikhail Mironov v. Russia*, no. 58138/09, §§ 36-40, 6 October 2020; *Bosev v. Bulgaria*, no. 62199/19, § 73, 4 June 2024; *Tsulukidze and Rusulashvili*, cited above, § 56; *Doynov v. Bulgaria*, no. 27455/22, § 54, 1 April 2025; and *A and B v. Malta*, no. 4986/24, §§ 69-75, 24 June 2025).

31. To sum up, the Court reaffirms the importance of appearances for ensuring objective impartiality and, therefore, confidence in the justice system. It further reiterates that, under the objective test of impartiality, the applicant was required to show that there was an appearance of partiality supported by ascertainable facts, rather than to prove that the judges were actually biased or prejudiced (see *Tsulukidze and Rusulashvili*, cited above, §§ 55-58). In this connection the Court observes that disciplinary proceedings against judges leading to sanctions is a serious matter which, in principle, can have a significant effect on the private and professional life of the judge concerned capable of raising an arguable claim about lack of impartiality (see *Rustavi 2 Broadcasting Company Ltd and Others*, cited above, § 360). The Court therefore concludes that the rather superficial examination of the applicant's allegations failed to alleviate her fears concerning the impartiality of the two judges of the Civil Court of Appeal.

32. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. 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.”

A. Damage

34. The applicant claimed 57,000 United States dollars (USD) in respect of pecuniary damage and 10,000 euros (EUR) in respect of non-pecuniary damage.

35. The Government contested those claims.

36. The Court reiterates that an award of just satisfaction can only be based on the fact that the applicant did not have the benefit of all the guarantees of Article 6 § 1 of the Convention. However, the Court cannot speculate as to what the outcome of the proceedings would have been had they complied with Article 6 § 1 of the Convention (see *Suren Antonyan v. Armenia*, no. 20140/23, § 147, 23 January 2025). In the present case, the Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. The Court notes, however, that its finding of a violation serves as grounds for the review of a final decision or judgment under Article 419 § 1(2) of the Armenian Code of Civil Procedure, which, if granted, would constitute an appropriate means of addressing the violation found (see *Word of Life Church of Christians of Evangelical Faith in Armenia and Simonyan v. Armenia*, no. 30817/13, § 58, 2 April 2026).

37. That said, the Court considers that the applicant must have sustained non-pecuniary damage which is not sufficiently compensated by the finding of a violation. Accordingly, it awards her EUR 3,600 in respect of non-pecuniary damage, plus any tax that may be chargeable (see *Word of Life Church of Christians of Evangelical Faith in Armenia and Simonyan*, cited above, § 59; see also *Suren Antonyan*, cited above, § 148, and *Tsulukidze and Rusulashvili*, cited above, § 64).

B. Costs and expenses

38. The applicant did not make any claims in respect of costs and expenses. There is therefore no call for the Court to make any award on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, EUR 3,600 (three thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Kateřina Šimáčková
President