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**Status of Implementation of the Decisions
of the Constitutional Court in the Legal Practice
of the Republic of Armenia**

The Constitutional Court of the Republic of Armenia as a result of executing its constitutional powers adopts decisions and conclusions, which are final and enter in to force from the moment of publication. The adopted decisions of the Constitutional Court have imparative nature within the entire territory of the Republic of Armenia.

Throughout 20 years of its activities, the Constitutional Court of the Republic of Armenia has adopted 1262 decisions (as of 01.04.2016), from which 219 referred to the constitutionality of the normative acts, 43 referred to the constitutionality of the electoral disputes and 1000 referred to the constitutionality of the obligations stipulated by the international treaties.

Being guided by the fundamental principles stipulated by the Constitution of the Republic of Armenia, European Convention on Human Rights and Fundamental Freedoms and other international internal legal documents, as well as referring also to the international experience of the democratic development and the case law practice of the European Court of Human Rights, attaching an importance to forming and developing of the required legal normative prerequisites, evaluating also the law enforcement practice, the Constitutional Court of the Republic of Armenia by its decisions has proposed doctrinal approaches, stated key legal positions



and accordingly, has successfully developed them. On the basis of the legal positions of the Constitutional Court of the Republic of Armenia, a broad variety of systematic and institutional amendments have been made in the legislative regulations. The legal positions of the Constitutional Court of the Republic of Armenia have also been a fundamental basis for the recent Constitutional Amendments in the Republic of Armenia.

Within the scopes of the discussed topic, we find it important to mention, that by the end of each calendar year, in compliance with the prescribed legal provision in the RA Law on the Constitutional Court of, the Constitutional Court of the Republic of Armenia publishes the Bulletin on the status of fulfillment of the decisions of the Court. The analysis of these Bulletins clearly identifies that since the very first publication their aims have not been scoped as purely informative and statistical. Through these Bulletins the Constitutional Court also implements analysis thus focusing not only on the matters of provision of constitutional legality within the given year, but furthermore the Court presents suggestions for solving the above stated matters, which are first of all addressed to the state power institutions and respective officials.

When it comes to guaranteeing the implementation of the decisions of the Constitutional Court of the Republic of Armenia, the basic approaches are the following:

- the decisions of the Constitutional Court are imperative legal conclusions, which have been held as a result of the official interpretation of the legal content of the constitutional norms and revealing of the constitutional legal-content of the legal norms;
- the implementation of the decision of the Constitutional Court shall have tri-unity legal consequence. It shall firstly become the guarantee of protection of objective right for everyone, secondly, it shall protect in a concrete manner the subjective rights of the persons, and thirdly, it shall become a source of law for the legislator and law-enforcer, thus having a guiding importance in the sphere of development of law.

The matters related to the fulfillment of the decisions of the Constitutional Court of the Republic of Armenia can be mainly summed up as the following:

- the fulfillment of the legal positions of the Constitutional Court as precedential law;
- the review of the judicial acts on the basis of the decisions of the Constitutional Court as the new circumstance;
- the functional relationship of the bodies of state power in the process of guaranteeing and enforcing the decisions of the Constitutional Court.

There is a necessity to entrench in the legal practice of the Republic of Armenia the approach according to which the legal consequences of the decisions of the Constitutional Court shall be perceived and considered not only within the frames of the provided final provisions, but also through the prism integrity of the decision, also taking into account the case law importance of the legal positions of the Court.

In regard to the legal positions of the constitutional court, the doctrinal approaches of the Constitutional Court of the Republic of Armenia are the following:

- directly follow from the powers of the Constitutional Court, therefore, they have official nature;
- being the integral part of the decision, have independent legal content and significance for the legal-enforcement;
- have specific legal consequence, they are addressed to the subjects of a specific case and to all subjects of public legal relationships, i.e. they are universal;
- are called to promote the elimination of the legal uncertainty in the RA legal system and law enforcement practice, they are a basis for constitutionalization of legal relations and have precedential nature;
- prior to the normative regulation of the relation in dispute, in some cases they are also temporary means of legal regulation;
- are the official interpretation of the norms of the RA Constitution.

The issue of implementing the legal positions of the Constitutional Court as the precedential law is becoming tense when from the viewpoint of protection of human rights and restoration of violated rights there is a need to use the decision of the Constitutional Court of the Republic of Armenia as the new circumstance for the review of the judicial act. The Constitutional Court of the Republic of Armenia has referred to the mentioned issue in its several decisions, and recognized several norms of the institute of review of cases based on new circumstances in regard to the content given to them in law enforcement practice as null and void from compliance with the Constitution. The matter is that according to these legal provisions, the application of law with an interpretation other than the legal positions of the Constitutional Court did not provide an opportunity to restore violated human rights through the review of the case due to new circumstances within the scopes of judicial appeal.

The doctrinal approaches of the Constitutional Court of the Republic of Armenia in regard to the institute of review of the judicial act on the basis of new circumstances can be concluded as the following:

- the judgment review due to new circumstances shall inevitably ipso facto lead to overrule of the judgment which applied the unconstitutional norm and/or violated the convention right, excluding the possibility of leaving the review judgment unchanged;
- in law enforcement practice the legal provisions may not be interpreted and applied in a way which will contradict their constitutional legal content by the Constitutional Court. Even if the legal provision is declared as constitutional but the courts implement it with the interpretation contradictory to the constitutional legal content of the norm, the case may be renewed due to the new circumstance;
- the scope and frames of the duly in power judicial act to be renewed under new circumstances are conditioned with the subject of regulation of the normative provision recognized

as unconstitutional, with the nature and peculiarities of the relations, with the frames of enforcement and with the fact of concrete violation of rights of an individual.

On the basis of the decisions of the Constitutional Court of the Republic of Armenia several fundamental and systematic legislative amendments have been made, the general logics of which indicates that the new circumstance can be formed not only in the case of declaring as unconstitutional specifically enforced norm within the frames of the concrete case, but as well as in the cases when the given norm is enforced in the judicial practice in an interpretation which differs from the legal positions expressed by the Constitutional Court. In the given case, the Constitutional Court is prescribed with the authority to decide whether the given judicial act is or not entitled to review in accordance with the procedure prescribed by the law.

When it comes to the issues of functional relationship between the bodies of state power guaranteeing of fulfillment of the decisions of the Constitutional Court of the Republic of Armenia, they are particularly conditioned by the following:

- absence of full system of constitutional monitoring;
- incomplete, non-systemized and non-punctual implementation of the legal positions of the Constitutional Court by the law creating and law enforcing bodies.

It is necessary to mention, that respective solutions to the abovementioned matters were drawn by the nationwide referendum of 6 December 2015 on the Amendments to the Constitution of the Republic of Armenia.

