Non-Official Translation

IN THE NAME OF THE REPUBLIC OF ARMENIA
DECISION OF THE CONSTITUTIONAL COURT OF
THE REPUBLIC OF ARMENIA

ON THE CASE OF CONFORMITY OF CLAUSE 4 OF ARTICLE 376.1 OF THE CRIMINAL PROCEDURE CODE WITH THE CONSTITUTION ON THE BASIS OF THE APPLICATIONS OF ARTAK GALSTYAN AND THE CRIMINAL COURT OF APPEAL

Yerevan November 6, 2019

The Constitutional Court composed of A. Gyulumyan (Chairman), A. Dilanyan, F. Tokhyan, A. Tunyan, A. Khachatryan, H. Nazaryan, A. Petrosyan (Rapporteur),

with the participation of (in the framework of the written procedure)**:**

the applicants: Artak Galstyan (representative – S. Sargsyan) and the Criminal Court of Appeal,

the respondent: K. Movsisyan, representative of the National Assembly, Head of the Legal Support and Service Division of the National Assembly Staff,

pursuant to clause 1 of article 168, clause 8 of part 1 and part 4 of article 169 of the Constitution, as well as articles 22, 41, 69 and 71 of the Constitutional Law on the Constitutional Court,

examined in a public hearing by a written procedure the case on conformity of clause 4 of article 376.1 of the Criminal Procedure Code with the Constitution on the basis of the applications of Artak Galstyan and the Criminal Court of Appeal.

The Criminal Procedure Code (hereinafter - the Code) was adopted by the National Assembly on July 1, 1998, signed by the President of the Republic on September 1, 1998, and entered into force on January 1, 1999.

The challenged clause 4 of article 376.1 of the Code, titled: “Appeal of judicial acts of the first instance court”, prescribes that the following are subject to appeal:

“4) decisions of the first instance courts on choosing, amending or canceling detention as a measure of restraint, and in cases prescribed in this Code, the decisions on search, seizure, placement of persons in a medical institution, as well as on the restriction of the right to confidentiality of correspondence, telephone conversations, postal, telegraph and other communications”.

Article 376.1 of the Code was supplemented and added by the Laws HO-270-N of 28.11.2007, HO-237-N of 26.12.2008 and HO-45-N of 05.02.2009.

The case was initiated on the basis of the applications of Artak Galstyan and the Criminal Court of Appeal submitted to the Constitutional Court on 3 July 2019 and 22 July 2019 respectively.

Based on article 41 of the Constitutional Law on the Constitutional Court, by the Procedural Decision of the Constitutional Court PDCC-85 of 24 July 2019 the cases on the above applications were joint for the consideration in one court session.

Having examined the written explanations of the applicants and the respondent, as well as having analyzed the relevant provisions of the Code and other documents of the case, the Constitutional Court **FOUND:**

1. Applicants’ arguments

1.1. The applicant A. Galstyan considers that clause 4 of article 376.1 of the Code does not exhaustively list the decisions of the First Instance Courts which restrict the rights and freedoms of a person in the criminal proceedings that are subject to appeal, and this norm has been interpreted and applied in the court practice that contradicts articles 3, 6, 27, 28, part 5 of article 29, part 1 of article 61 and part 1 of article 63 of the Constitution.

According to A. Galstyan, due to the application of clause 4 of article 376.1 of the Code, the principle of part 1 of article 288 of the Code is violated, according to which the Court of Appeal is

empowered to resolve the issue of legality and validity of the decision on detention and, in this respect, it actually turns out that the Court of Appeal receives the seeming legitimate reason for refusing to administer justice, which is unacceptable.

1.2. The Criminal Court of Appeal, the applicant notes that the literal interpretation of clause 4 of article 376.1 of the Code indicates that the Code does not provide for the possibility of appealing the decision of the First Instance Court on rejecting to satisfy the motion on leaving the detention chosen as a measure of restraint unchanged, which was rendered after the completion of the preparatory phase of the trial, i.e. after rendering the decision on the appointment of the trial.

The Criminal Court of Appeal considers that clause 4 of article 376.1 of the Code and its interpretation in law enforcement practice disproportionately restricts the person's right to appeal the lawfulness of deprivation of liberty and does not comply with part 5 of article 27 and part 1 of article 61 of the Constitution, insofar as it is not possible to appeal the decisions of the First Instance Court rejecting to satisfy the motion on leaving unchanged the detention chosen as a measure of restraint, including also the replacement of detention with a pledge.

2. Respondent's arguments

According to the respondent, the proceedings in the joint case are subject to termination.

Regarding the issues raised by the applications of the joint case, the respondent notes that on 19 February 2019 the Constitutional Court adopted the Decision DCC-1446 "On the case of conformity of articles 376.1 and 478.2 of the Criminal Procedure Code with the Constitution of the Republic of Armenia on the basis of the application of the Criminal Court of Appeal of the Republic of Armenia''.

As regards the aforementioned argument of the respondent, the applicant A. Galstyan submitted an objection, noting, in particular, that the issue of constitutionality of article 376.1 of the Code was not actually reviewed, and by a procedural decision the Constitutional Court terminated the proceedings in this part.

3. Issues to be ascertained within the framework of the case

In the framework of the constitutional legal issues raised in the present case, the Constitutional Court considers it necessary, in particular, to address the following issues:

a) Does the legal regulation of the challenged provision and its interpretation in the law enforcement practice provide for the effective implementation of the person's right to challenge the lawfulness of deprivation of liberty guaranteed by part 5 of article 27 of the Constitution, as well as the person's right to judicial protection and the right to appeal (as the integral part of the latter) guaranteed by part 1 of article 61 of the Constitution, taking into account also the constitutional legal requirements for the existence of organizational mechanisms and procedures for the exercise of fundamental rights and freedoms?

b) Is the legal regulation of the challenged provision and its interpretation in the law enforcement practice in tune with the practice of bodies acting on the basis of international human rights treaties ratified by the Republic of Armenia?

Based on the foregoing, the Constitutional Court considers the constitutionality of the challenged legal regulation in the context of part 5 of article 27, part 1 of article 61, articles 75 and 81 of the Constitution.

As regards the respondent's argument that the proceedings in the joint case are subject to termination, since on 19 February 2019 the Constitutional Court adopted the Decision DCC-1446, the Constitutional Court states that the Decision DCC-1446 did not assess the constitutionality of article 376.1 of the Code, and bearing in mind that the applicant's doubts were not well-grounded, on the grounds of part 1 of article 60 and clause 2 of part 1 of article 29 of the Constitutional Law on the Constitutional Court, by the procedural decision of the Constitutional Court the case was terminated in this part.

4. Legal assessments of the Constitutional Court

4.1. The study of the relevant legal regulations of the Code indicates that the consideration of issues related to detention as a measure of restraint is carried out both in pre-trial criminal proceedings and at the stages of pre-trial preparation and during the trial. The issue under consideration concerns the direct appeal of the decisions (not changing or abolishing the detention chosen as a measure of restraint) on rejecting to satisfy the motion for not changing or abolishing the detention chosen as a measure of restraint at the stage of trial.

Part 1 of article 376 of the Code, titled "The right to appeal", establishes that the convict, the acquitted person, their defense lawyers and legal representatives, as well as the applicant shall have the right to appeal judicial acts provided for in clauses 3-6 of article 376.1 of the Code.

Part 4 of article 376.1 of the Code, inter alia, establishes that the **decisions** of the first instance courts **on choosing, amending or canceling the detention as a measure of restraint** are subject to appeal. It should be noted that the legislator by the mentioned provision did not directly establish the possibility of appealing the interim judicial acts, such as **the decisions on rejecting to satisfy the motion for amending or canceling the detention chosen as a measure of restraint**.

The study of judicial practice indicates that the above legal regulation is applied mainly in the interpretation according to which interim judicial acts, established by the challenged provision, are subject to direct appeal. As regards interim judicial acts not directly established by the challenged provision, the possibility of appealing them is not excluded, but is postponed to a later stage. That is, they can be appealed together with appealing the judicial act resolving the case on the merits. Nevertheless, there are cases in judicial practice, when the complaints submitted as a result of a direct appeal of interim judicial acts not directly established by the challenged provision are accepted for consideration (See, for example, the Decisions of the Criminal Court of Appeal in the criminal case YKD/0001/01/15 of 15.09.2016, criminal case YKD/ 0267/01/15 of 08.09.2016, criminal case YKD/0032/01/16 of 24.01.2017).

It should also be noted that the Cassation Court has also addressed the matter at issue, in particular, by its Decision on the criminal case YKD/0274/01/15 of March 20, 2018. In this Decision, the Cassation Court, inter alia, noted that "… the criminal procedural law does not provide for the possibility of a direct appeal against the decision on not amending the detention chosen as a measure of restraint (including the rejection to satisfy the motion for replacing the detention with bail) rendered by the first instance court after the completion of the stage of preparation of the case for trial (in other words, after rendering the decision on the appointment of the trial based on the results of the discussions with the participation of relevant participants in the trial)".

4.2. The Constitutional Court states that part 5 of article 27 of the Constitution, titled "Personal Liberty", establishes that everyone deprived of personal liberty shall have the right to challenge the lawfulness of depriving him or her of liberty, about which the court shall render a decision in a short time and shall order his or her release if the deprivation of liberty is unlawful.

The Constitutional Court also notes that international legal criteria for the exercise of the right to protection against the use of coercive measures related to the deprivation of personal liberty are established in a number of international legal documents, in particular:

- according to part 4 of article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention), everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful;

- part 4 of article 9 of the International Covenant on Civil and Political Rights establishes that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful;

- according to clause 19 of the Recommendation of the Committee of Ministers of the Council of Europe Rec (2006)13 of 17 September 2006 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, "(1) A remand prisoner shall have a separate right to a speedy challenge before a court with respect to the lawfulness of his or her detention. (2) This right may be satisfied through the periodic review of remand in custody where this allows all the issues relevant to such a challenge to be raised".

The Constitutional Court and the European Court of Human Rights (hereinafter referred to as the ECHR) have addressed the content of the above constitutional and international legal regulations, expressing specific legal positions. Thus:

Revealing the constitutional legal content of the right to personal liberty expressed in a number of decisions (DCC-827, DCC-913, DCC-1059, DCC-1295, DCC-1421), the Constitutional Court noted that the constitutional legal criteria for the protection and the possible restriction of this right. In the Decision DCC-1295 of 2 September 2016, the Constitutional Court established that the legal content of the provisions of article 27 of the Constitution, in particular, directly implies that:

- the legal criteria for the deprivation of personal liberty are established by the Constitution;

- the procedure for deprivation of personal liberty is established by law;

- a person has the right to judicially challenge the lawfulness of deprivation of liberty;

- the court decides on the lawfulness of deprivation of liberty in short time.

In the Decision DCC-1421 of 26 June 2018, the Constitutional Court stated that the constitutionality of any procedure for criminal proceeding that provides for the restriction of the

constitutional right to personal liberty depends not only on the proper and effective implementation of judicial control over compliance of the above-mentioned standards of the lawfulness of restricting this right, but also on guaranteeing the right to defend from the application of coercive measures in connection with the deprivation of liberty. In the same Decision, the Constitutional Court noted that guaranteeing adequate protection of the constitutional rights of a person in criminal proceedings should equally be available both during the trial and in preparation for the trial.

Regarding the protection of the right to personal liberty, as well as the right to challenge the lawfulness of detention, the ECHR, in particular, expressed the following legal positions:

- Within the framework of the case law of the ECHR, particular importance is attached to the fact that in the context of the review of the ongoing detention, the proceedings must be adversarial and guarantee the "equality of arms" of the parties - the prosecutor and the detainee (Judgment of the Grand Chamber in the case of Nikolova v. Bulgaria of 25 March 1999, application no. 31195/96, § 58; Judgment in the case of Altinok v. Turkey of 29 November 2011, application no. 31610/08, §§ 47, 55);

- When reviewing the lawfulness of detention, ensuring the right to an effective trial is considered as the primary fundamental guarantee both in the context of article 5 and article 13 of the Convention. It is also noted that the concept of "lawfulness" prescribed in part 4 of article 5 of the Convention has the same content as in part 1 of the same article, therefore, the detained person is entitled to a review of his detention in the light not only of the requirements of domestic law but also of the text of the Convention, the general principles and the aim embodied therein (Judgment of the Grand Chamber in the case of Chahal v. the United Kingdom of 15 November 1996, application no. 22414/93 § 127);

- It is emphasized that the existence of a remedy must be sufficiently certain and the lawfulness of detention shall be decided at reasonable intervals (Judgment in the case of Iłowiecki v. Poland of 4 October 2001, application no. 27504/95, § 76, Judgment in the case of Shishkov v. Bulgaria of 9 January 2003, application no. 38822/97, § 88, Judgment in the case of Vachev v. Bulgaria of 8 July 2004, application no. 42987/98, § 71, Judgment in the case of Shtukaturov v. Russia of 17 March 2008, application no. 44009/05, § 121);

- It is noted that part 4 of article 5 of the Convention does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention and for hearing applications for release. Nevertheless, a State which institutes such a system must in

principle accord to the detainees the same guarantees on appeal as at first instance. It is also noted that an assessment of overall trial is required in such cases in order to determine whether a decision was given speedily, the duration of the general trial is evaluated (Judgment in the case of Toth c. Autriche of 12 December 1991, application no. 11894/85, § 84, Judgment in the case of Navarra v. France of 2 November 1993, application no. 13190/87, § 28, Judgment in the case of Kucera v. Slovakia of 17 July, 2007, application no. 48666/99, § 107).

As a result of the comparison of the above legal positions, the Constitutional Court emphasizes that **in order to exercise the right to challenge the lawfulness of deprivation of personal liberty - detention, such legal guarantees are necessary that will ensure, in particular, a reasonable intervals of verification of the lawfulness of detention, equal opportunities for the parties to uphold their arguments and will be effective without violating the essence of the right to challenge the lawfulness of deprivation of personal liberty - detention**.

4.3. As a result of a comprehensive analysis of the provisions of the criminal procedural legislation, the Constitutional Court, firstly, states that the Code does not establish specific and maximal terms for the trial, which in practice does not exclude the possibility that the trial can take several years.

In addition, at the trial stage, detention is chosen as a measure of restraint for an indefinite period. Unlike pre-trial proceedings, during the trial in court the maximal period of detention is not established by the legislation (part 6 of article 138 of the Code). As a result, the legislation also did not establish the possibility of extension by the first instance court of the term of the detention chosen as a measure of restraint.

As for the reasonable intervals of verification of the lawfulness of detention, according to the current legal regulations, it is carried out by the first instance court only in pre-trial proceedings. During the entire trial stage, the only prerequisite for verifying the lawfulness of an already chosen detention may be only a motion from a party to amend or cancel it. In the absence of such a motion, the court is not legally assigned any responsibility to verify the lawfulness of detention. Verification of the lawfulness of detention at the trial stage in the current law enforcement practice becomes the subject of consideration by higher courts only after the completion of the proceedings in the first instance court, and not during it.

According to the assessment of the Constitutional Court, this situation **is not in tune with the constitutional and international criteria for ensuring the exercise of the right to challenge the lawfulness of deprivation of personal liberty - detention**.

It follows from the challenged provision that, in case of restriction of a person's right to liberty, the defense does not have the opportunity to directly appeal the court's decision on not amending or canceling the detention chosen as a measure of restraint when the prosecution has the right to directly appeal the court's decision on amending or canceling the detention chosen as a measure of restraint.

The Constitutional Court argues that in terms of ensuring the protection of rights and freedoms, a trial is effective if it is based on the principle of competition, i.e., inter alia, by virtue of the criminal procedure legislation the parties to criminal proceedings are endowed with equal opportunities to defend their arguments.

The Constitutional Court considers that in the absence of the above possibility for the defense, the full implementation of the adversarial principle is not ensured; therefore, **in challenging the lawfulness of detention, in higher judicial instances the defense should have the same rights and possibilities as in the first instance court**.

4.4. The Constitutional Court considers it necessary to consider the issue of constitutionality of the challenged provision also in the context of the term "**short time**" prescribed in part 5 of article 27 of the Constitution.

The purpose of the constitutional requirement for a court to render in a short time decisions in connection with the issue of the lawfulness of deprivation of personal liberty is to ensure the effective exercise of the right of the person deprived of personal liberty to challenge the deprivation of his or her personal liberty. The requirements for rendering a decision in a short time apply both to courts of general jurisdiction and to higher judicial instances.

In this aspect, a number of legal positions expressed by the ECHR are also noteworthy. The ECHR has noted that part 4 of article 5 of the Convention allows any detainee to apply to a court having jurisdiction to decide "speedily" whether or not their deprivation of liberty had become "unlawful" in the light of new factors which emerged subsequently to the decision on his initial placement in custody (Judgment in the case of Abdulkhanov c. Russie of 2 October 2012, application no. 14743/11, § 213, Judgment in the case of Azimov c. Russie of 18 April 2013,

application no. 67474/11, § 152), and also expressed a legal position, according to which there is a special need for a **swift** decision determining the lawfulness of detention in cases where a trial is pending because the defendant should benefit fully from the principle of the presumption of innocence (Judgment in the case of Moiseyev v. Russia of 9 October 2008, application no. 62936/00, § 160-163). It should also be emphasized that in the aforementioned case, the ECHR found a violation of part 4 of article 5 of the Convention on account **of the higher court's failure to swiftly examine the appeal of the person against the court's decision on rejecting his or her motion for release**.

Based on the foregoing, the Constitutional Court considers that **the need to provide for the possibility of directly appealing against decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure of restraint also follows from the requirement of a "short time" prescribed in part 5 of article 27 of the Constitution, which also ensures the effective implementation of the fundamental right prescribed in the mentioned part**.

4.5. The Constitutional Court considers it necessary to assess the constitutionality of the challenged provision also from the perspective of the effective exercise of the right to judicial protection and the right to appeal as an integral part of the latter.

According to part 1 of article 61 of the Constitution, everyone shall have the right to effective judicial protection of his rights and freedoms.

The Constitutional Court states that there are particularities in the appeal of judicial acts resolving the case on the merits and not resolving the case on the merits. The Constitutional Court, analyzing in the Decision DCC-719 of 28 November 2007 the legal provisions regarding the appeal of interim judicial acts, has stated: ".... the legislator generally considers appealable all those acts that may terminate or hinder the process of exercising the right of the access to a court ....".

The Constitutional Court considers that when a fundamental right to personal liberty is restricted by a judicial act not resolving the case on the merits, the protection of this right is not effectively realized through a deferred appeal, since the person continues to remain under detention for an indefinite period during the entire trial, not being able to appeal the lawfulness of detention during this period.

In this aspect, the Constitutional Court considers that the review of a judicial act by higher judicial instances is a special institution of protecting violated rights and freedoms and guaranteeing its effectiveness. Based on the considerations of the general logic of the criminal procedure legislation and ensuring the effective exercise of the right to judicial protection and the right to appeal as the integral part of the latter, the defense party must be enabled to directly appeal the decisions on rejecting to satisfy the motion on leaving unchanged the detention chosen as a measure of restraint.

The Constitutional Court considers that the review of the interim judicial acts not resolving the case on the merits, that are not directly related to the content of the final judicial act rendered before the adoption of the judicial act resolving the case on the merits, cannot affect the internal independence of lower courts, since the final judicial act, inter alia, includes conclusions regarding the factual circumstances of the case, assessment of evidence, qualifications of the incriminated act, and the sentence. The decisions on rejecting to satisfy the motion on leaving unchanged the detention chosen as a measure of restraint do not predetermine the conclusions of the first instance court regarding the main issues to be resolved in the criminal case - the guilt of the defendant and the sentence. Consequently, the failure to verify the lawfulness of the decisions on rejecting to satisfy the motion on leaving unchanged the detention chosen as a measure of restraint (as prescribed in part 4 of article 376.1 of the Code) before the adoption of the final judicial act, cannot be conditioned by the interest of the effectiveness of justice, taking into account, in particular, the nature of the detention, as the most intense interference with personal liberty of a person.

As for the issue that the possibility of a direct appeal of the decision on leaving unchanged the detention chosen as a measure of restraint, threatens the natural activities of a higher court, in particular, in the aspect of the absence of any prohibition on the submission of a number of such motions, it should be noted that the legislator established a requirement according to which a re-submission of a motion and petition to the same body carrying out criminal production or at the same stage of criminal proceedings is possible if new arguments are presented in support thereof, or in the course of criminal proceedings the need to satisfy them is confirmed (part 4 of article 102 of the Code).

The Constitutional Court considers that **restricting the direct appeal of the decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure**

of restraint cannot be at the expense of ensuring the effective exercise of fundamental rights and freedoms due to the number of such complaints.

4.6. Turning to the issue of legislative support (legislative gap) of the implementation of the right to appeal directly against the decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure of restraint, the Constitutional Court states that in a number of decisions the Court has referred to the content of the concept of legislative gap (see, for example, DCC-864, DCC-914, DCC-922, DCC-1020, DCC-1056, DCC-1143, and DCC-1476). In particular, in the Decision DCC-1476 of 4 September 2019, the Constitutional Court has stated that "…. in cases where a gap in law is due to the absence of a normative requirement regarding specific circumstances within the sphere of legal regulation, overcoming such a gap is within the competence of the legislative body. Within the framework of the consideration of the case, the Constitutional Court refers to the constitutionality of any of the gaps in the law if, due to the content of the challenged norm, the legal uncertainty led to such an interpretation and application of this norm in law enforcement practice **that violates or may violate a specific constitutional right**."

The Constitutional Court considers that the challenged provision contains a legislative gap, i.e. the possibility of directly appealing against the decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure of restraint is missing. As noted above, the mentioned legislative gap has led to the formation of contradictory law enforcement practices.

The Constitutional Court also notes that the provision challenged in the present case is not consonant with the criterion for appealing against the lawfulness of deprivation of personal liberty formed in the framework of the practice of bodies acting on the basis of international human rights treaties ratified by the Republic of Armenia, in part that the said provision does not provide for the possibility of directly appealing against the decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure of restraint.

Summing up the above, the Constitutional Court considers that **the effective realization of the possibility of protecting the right to personal liberty through the exercise of a person's right to judicial protection, as well as appealing against the lawfulness of deprivation of liberty, should be ensured by the relevant legislative guaranteeing and clear determination of the necessary organizational mechanisms and procedures, including by providing reasonable periodicity of verification of the lawfulness of detention and equal opportunities for protection**

by the parties of their arguments, as well as by providing complex regulations for submitting and examining motions for amending or canceling the detention chosen as a measure of restraint, which will effectively ensure a balanced protection of private and public interests. The above follows from the requirements of article 75 of the Constitution, as well as from the practice of bodies acting on the basis of international human rights treaties ratified by the Republic of Armenia. Overcoming the mentioned legislative gap is within the competence of the National Assembly.

Based on **the constitutional requirement of direct action of fundamental human rights and freedoms, and taking into account the practice of bodies acting on the basis of international human rights treaties ratified by the Republic of Armenia, the judicial practice, before the National Assembly establishes the relevant legal regulations, should be guided by such an approach that at the stage of the trial of the case, the decisions on rejecting to satisfy the motions for amending or canceling the detention chosen as a measure of restraint are subject to direct appeal by way of appeal in the manner established by the Code for appealing the decisions of the first instance courts on choosing, amending or canceling detention as a measure of restraint, guided by the need to ensure the effective exercise of the right to challenge the lawfulness of deprivation of personal liberty and the right to judicial protection**.

Based on the review of the case and governed by clause 1 of article 168, clause 8 of part 1 of article 169 and part 4, parts 1 and 4 of article 170 of the Constitution, articles 63, 64, 69 and 71 of the Constitutional Law on the Constitutional Court, the Constitutional Court **HOLDS:**

1. To declare clause 4 of article 376.1 of the Criminal Procedure Code contradicting part 5 of article 27, part 1 of article 61, articles 75 and 78 of the Constitution, in part that it does not provide the possibility of directly appealing the decisions on rejecting to satisfy the motions for changing or abolishing the detention chosen as a measure of restraint.

2. Based on part 3 of article 170 of the Constitution, clause 4 of part 9 and part 19 of article 68 of the Constitutional Law on the Constitutional Court, the legal assessments expressed in this Decision and the need to align the challenged provision with the latter, noting the interrelation of the relevant legal regulations of the Criminal Procedure Code with the legal provision declared contradicting the Constitution by clause 1 of the final part of this Decision, also taking into account the constitutional requirement of not violating the legal security, to define 15 April 2020 for the

invalidation of the legal provision declared contradicting the Constitution by clause 1 of the final part of this Decision, providing the National Assembly the possibility to reconcile the relevant legal regulations of the Criminal Procedure Code with the requirements of this Decision.

3. Pursuant to part 2 of article 170 of the Constitution this Decision shall be final and shall enter into force upon its promulgation.

Chairman **A. Gyulumyan**

November 6, 2019

DCC -1487