



IN THE NAME OF THE REPUBLIC OF ARMENIA

**DECISION
OF THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF ARMENIA**

**ON THE CASE OF CONFORMITY OF ARTICLE 181
OF THE RA ADMINISTRATIVE PROCEDURE CODE WITH
THE CONSTITUTION OF THE REPUBLIC OF ARMENIA
ON THE BASIS OF THE APPLICATION OF THE CITIZEN
SAMVEL ALAVERDYAN**

Yerevan

June 26, 2015

The Constitutional Court of the Republic of Armenia composed of G. Harutyunyan (Chairman), Justices K. Balayan (Rapporteur), K. Balayan, F. Tokhyan, A. Khachatryan, V. Hovhanissyan, H. Nazaryan (Rapporteur), A. Petrosyan,

with the participation (in the framework of the written procedure) of A. Zeinalyan, the the Applicant's representative M. Ghulyan,

Representative of the Respondent: H. Sargsyan, official representative of the RA National Assembly, Head of the Legal Department of the RA National Assembly Staff,

pursuant to Article 100, Point 1, Article 101, Part 1, Point 6 of the Constitution of the Republic of Armenia, Articles 25, 38 and 69 of the Law on the Constitutional Court of the Republic of Armenia,

examined in a public hearing by a written procedure the Case on conformity of Article 181 of the RA Administrative Procedure Code

with the Constitution of the Republic of Armenia on the basis of the applications of the citizen Samvel Alaverdyan.

The Case was initiated on the basis of the application submitted to the Constitutional Court of the Republic of Armenia by the citizen Ara Alaverdyan on February 23, 2015.

Having examined the written reports of the Rapporteur on the Case, application and the written explanation of the Respondent, having studied the RA Administrative Procedure Code and other documents of the Case, the Constitutional Court of the Republic of Armenia **ESTABLISHES:**

1. The RA Administrative Procedure Code was adopted by the RA National Assembly on December 5, 2013, signed by the RA President on December 28, 2013 and came into force on January 7, 2013.

The challenged Article 181 of the Code prescribes:

“Article 181: Grounds for review of the judgment due to newly revealed circumstances

1. The newly revealed circumstances serve as grounds for review of judgment, if:

1) The judgment was adopted and entered into force on the basis of false evidence of the witness, apparently false conclusion of the expert, apparently wrong translation of the translator, falsified documents and exhibits;

2) By the judgment in force it was confirmed that the party to proceeding or her/his representative or the judge committed a crime regarding the examination of the case.”

By the wording of the RA Administrative Procedure Code of 28.11.2007 the procedure for review of judgment due to newly revealed circumstances was stipulated by Article 134 of the Code, according to which:

“Judgments of the Administrative Court can be reviewed due to newly revealed circumstances or new circumstances based on the grounds and by the procedure stipulated by the Civil Procedure Code of the Republic of Armenia.”

2. The procedural background of the Case is the following: Ere-buni Tax Inspectorate of the State Revenue Committee adjunct to the Government of the Republic of Armenia applied to the court with the claim to issue an order to levy 6.242.610 AMD from private entrepreneur Samvel Alaverdyan. The Applicant in his counterclaim submitted to the court on 09.02.2012 requested to recognize invalid the inspection act No 10000445 of Ere-buni Tax Inspectorate. By the decision ՎԴ 3170/05/12 of 29.07.2013 of the RA Administrative Court the claim was satisfied but the counterclaim was refused. The above-mentioned judgment of the RA Administrative Court was appealed and by the decision of the RA Administrative Court of Appeal of 18.12.2013 was refused. The cassation claim submitted by the Applicant was dismissed by the judgment of the RA Court of Cassation on 19.02.2014.

The Applicant submitted a cassation claim due to newly revealed circumstances, which was refused by the judgment of the RA Court of Cassation on 29.05.2014. The Applicant's re-submitted cassation claim to the RA Court of Cassation due to newly revealed circumstances was once again refused by the decision of the RA Court of Cassation on 27.08.2014 and by the decision of 05.11.2014 it was dismissed.

Previously, by the decision of February 23, 2012 of the body of preliminary investigation the Applicant was charged by Part 1 of Article 2005 of the RA Criminal Code for evading taxes, duties and other obligatory payments. Within the framework of criminal case No ԵԿԴ/0233/01/12 the Court appointed additional forensic accounting expertise, based on which the fact that the Applicant had only 924.882 AMD additional tax obligation was confirmed and he was acquitted in the certain episode of indictment and relevant judgment was adopted. The latter was appealed at the RA Court of Appeal and was left unchanged by the decision of 19.09.2014.

3. The Applicant finds that the challenged legal provision contradicts the requirements of Articles 1, 3, 6, 18 and 19 of the RA Constitution and presents the following groundings:

Article 181 of the RA Administrative Procedure Code precisely lists the newly revealed circumstances “which does not allow the court to implement grounds for review of judgment other than the listed grounds,” and in this certain case such a situation occurs “when two judicial acts of the RA judicial system contradict each other, in particular, the judgment of the RA administrative Court prescribes one liability and the judgment of the criminal case prescribes another liability. The current legislation does not prescribe any structure of adjudication of this situation”.

The Applicant states that the challenged provision of the RA Administrative Procedure Code contradicts Articles 18 and 19 of the RA Constitution as ‘restricts the right to access to court’. According to the Applicant, in the case of limited regulation of the challenged norm “the person is deprived of the right of judicial protection in the case when a circumstance of essential significance for the adjudication of the case, which is unknown to the person, is revealed”. In the law-enforcement practice such diverse circumstance may occur when certain circumstance essential for the adjudication of the case were unknown to the persons, could not be known and were not presented for reasons beyond control, and, as the Applicant states, in the interest of jurisdiction the law shall prescribe certain structures for ensuring protection of person’s rights in such circumstances. The Applicant also states that the RA Criminal and RA Civil Procedure Codes prescribe similar ground according to which due to newly revealed circumstances the judgments are reviewed when other unknown circumstances are revealed. Meanwhile, “the interpretation provided to Article 181 of the RA Administrative Procedure Code restricts the right to access to court as among the newly revealed circumstances does not prescribe revealing of other circumstances which were unknown before and could not be known to the parties to proceeding or these circumstances were known to the parties to proceeding but for the reasons beyond their control were not presented at the court, and these circumstances are of essential significance for the adjunction”.

Thus, the Applicant concludes that “the current legislation shows different approach to the cases examined by administrative and civil

procedure in the case of definition of the grounds for review of judgment” which did not occur in the former legal regulation.

4. The Respondent objected the Applicant’s arguments stating that unlike the RA Criminal Code and the RA Civil Procedure Code, the RA Administrative Procedure Code prescription of comprehensive list for the grounds of review of the final judicial acts due to newly revealed circumstances is conditioned with “peculiarities of the administrative litigation. Unlike the civil litigation, the administrative litigation is anchored on the principle of *ex officio* clarification of the circumstances of the case which suggests that the judge independently, irrespective to the parties to proceeding, shall undertake all equivalent remedies for revealing the real facts of the case” and that “the administrative court shall undertake equivalent remedies to perceiving possible and accessible information concerning the necessary real facts”. According to the Respondent, deriving from the circumstances of the case, based on the principle of clarifying *ex officio*, “if any circumstance essential for adjudication of the case has not been revealed, then procedural violation made by the court is present as the court is obliged to reveal that circumstance. In the case of procedural violation of the made by the court, the relevant circumstance cannot be considered as newly revealed”.

Simultaneously, regarding the circumstances related to the issue of legitimacy of action or inaction of the administrative body or newly revealed circumstances, the formerly adopted administrative act shall be reviewed”.

5. In the framework of the case, the Constitutional Court considers necessary in judging the constitutionality of the challenged legal regulation to esteem:

- In the framework of the institution of review of the judgments due to newly revealed circumstances, constitutional legal compatibility of the challenged legal regulation deriving from the legal positions expressed in the decisions of the Constitutional Court relating the challenged issue, taking also into consideration the practice formed in the European legal system,

- In the framework of the challenged issue, constitutional legitimacy of ensuring judicial protection of the person's rights, as well as access to court and rights to fair trial, by considering them in the context of the peculiarities of procedures of administrative litigation.

6. In a number of its decisions (DCC-701, DCC-709, DCC-751, DCC-758, DCC-765, DCC-767, DCC-833, DCC-872, DCC-935, DCC-1049, DCC-1114 etc.) the Constitutional Court referred in details the issues of revealing the constitutional legal content, unique perception and application of the institution of review of judgments in force, including due to newly revealed circumstances, as an exceptional measure for fair and effective restoration of person's violated rights in accordance with Articles 18 and 19 of the RA Constitution. Based on the framework of legal regulations examined by this Case, the legal positions expressed in those decisions lead to the following pivotal conclusions:

- Revision of legitimacy and substantiality of the judgments due to newly revealed circumstances is a grave guarantee for restoration of person's violated rights, correction of judicial mistakes and revealing the truth,
- The essence of those circumstances is the following: although they objectively existed at the moment of adoption of final judgments, but were unknown (or) could not be known both for the parties to proceeding and the court, or were known to the parties to proceeding but were not presented for reasons beyond control, or in some cases were newly revealed (Point 4 of Part I of Article 204.32 of the RA Civil Procedure Code),
- Substantiations presented to the court by the competent person as newly revealed circumstances (information, argumentations) serve as a reason for studying the relevant legal procedure of legitimacy and substantiality of the judgment which entered into force and in the case of availability (assessment of these circumstances as significant importance for the court) serve as grounds for review (termination, reconsideration of the case by the competent court) of the judgment, i.e. in the framework

of such a examination the competent court shall decide to what extent the presented circumstances had impact on the outcome of the case, and how the possible violated rights of a person must be restored,

- By procedural (criminal, civil) legislation the exhaustive list of arguments, information and proofs assessed as a “newly revealed” circumstance is not stipulated, which becomes the task of assessment (decision) of the court in case of submission by the interested party; simultaneously it is the task of legislation not to exclude the possibility of examination of any legally assessable “newly revealed” circumstance in the competent court, if its non-consideration in the judgment has led to the adoption of illegitimate and unsubstantiated decision, therefore to violation of person’s rights,
- The person who initiated such review carries the duty of legal substantiation (proof) of necessity to review the judgment in force due to this or that (previously known or unknown) circumstance,
- The review of judgments in force due to newly revealed circumstances is carried on in accordance with the judicial relevant procedure, in the framework of which the competent court is called to resolve the following judicial main tasks, study of not mentioned or newly revealed circumstances (proofs) not reflected in the decision in force, legal assessment and choice of relevant norms of legislation for the adjudication of the legal dispute, their interpretation and implementation, which were followed by the legal consequences, as well as related to the protection of the person’s rights.
- Study of case of law of the European Court of Human rights in the framework of the judicial examinations of the above-mentioned cases on constitutionality of the institution of review of judgments also states in the national justice procedures the necessity of implementation of the abovementioned criteria in each case when they are sufficient grounds for initiating “the review of the case” due to newly revealed circumstances. In particular, in a number of decisions ECHR confirmed that the

circumstances, which were available already during the examination of the case, but for some reason could not be presented to the court and become known only after the trial are considered as “newly revealed”. The person who applied to the court to recognize the judgment as shall prove that the evidence was impossible to present at the last hearing, and this evidence is of decisive importance (Xheraj v. Albania, application no. 37959/02, §53-54, Yerogova v. Russia, application no. 77478/01, §33, Maltseva v. Russia, application no. 76676/01, §33, Kumkin and others v. Russia, application no 73294/01, §31).

In the other case, turning upon to the issue of legal significance of the process of review of judgment due to new circumstances, ECHR states, “...review of the case due to the newly revealed circumstances does not contradict the principle of legal certainty as it is used for correction of judicial errors. It is the task of court to clarify is the procedure was implemented in concordance with Paragraph 1 of Article 6 (Case of Kuznetsova v. Russia, Application no. 67579/01, see *Pravednaya*, cited above, §28).

Study of national legal regulations of a number of European Union states due to newly revealed circumstances for review of the case in particular in administrative litigation state that amongst the others the essential facts which existed during the examination of the case which were unknown to the court and could have led to completely different decision (Latvia (Law on Administrative Proceeding, Chapter 39, Due to newly revealed circumstances de novo of cases, Chapter 353, Newly revealed circumstances), Estonia (Code of Administrative Court Procedure (entered into force 01.01.2012), §240, Grounds for Review), Bosnia and Herzegovina (Law on Administrative Disputes, Article 238), Croatia (General Act on Administrative Procedure, Article 123), Bulgaria (Administrative Procedure Code, Chapter 14, Reversal on Motion by Party to Case Subject of Reversal, Section 1, Article 239), Czech Republic (Code of Administrative Procedure, Section 2, Resumption of Proceeding, §111, Reasons for Resumption), Poland (Procedural Law in Administrative Courts, Article 273), Germany (Code of Admin-

istrative Court Procedure, Article 153, Code of Civil Procedure, §580), Finland (Administrative Judicial Procedure Act, Section 27, Alteration of Appeal), etc. For instance, according to § 153 of Code of Administrative Court Procedure, of Germany the litigation ended by force of law may be resumed in accordance with the provisions of Book Four of the Code of Civil Procedure, i.e. on the basis of the claim lodged to null the judgment; according to §579 of the Code, when certain grave procedural violation are available, or as a requirement of restitution on the basis of the submitted claim in accordance with §580 of the Code of Civil Procedure of Germany, the judgment was based on the incorrect, in particular, falsified or incomplete or insufficient grounds. In accordance with Article 153 of the Administrative Procedure Code of the Federal Republic of Germany, “Proceedings ended by force of law may be resumed in accordance with the provisions of Book Four of the Code of Civil Procedure,” and §580 of the latter stipulates: “An action for retrial of the case may be brought:

1. Where the opponent, by swearing an oath regarding his testimony, on which latter the judgment had been based, has intentionally or negligently committed perjury;
2. Where a record or document on which the judgment was based had been prepared based on misrepresentations of fact or had been falsified;
3. Where, in a testimony or report on which the judgment was based, the witness or experts violated their obligation to tell the truth, such violation being liable to prosecution;
4. Where the judgment was obtained by the representative of the party or its opponent or the opponent’s representative by a criminal offence committed in connection with the legal dispute;
5. Where a judge contributed to the judgment who, in connection with the legal dispute, violated his official duties vis-a-vis the party, such violation being liable to prosecution;
6. Where judgment by a court of general jurisdiction, by a former special court, or by an administrative court, on which the judgment had been based, is reversed by another judgment that has entered into force;

7. Where the party a) Finds, or is put in the position to avail itself of, a judgment that was handed down in the same matter and that has become final and binding earlier, or where it b) Finds, or is put in the position to avail itself of, another record or document that would have resulted in a decision more favorable to that party's interests."

Thus, reconfirming the constitutional legal contents of the institution of review of the judgments due to newly revealed circumstances, on the principles of its uniform perception and implementation based also on the comprehensive study of relevant criteria in the European legal system, the Constitutional Court states the constitutional legal significance of that institution in different, including administrative judicial processes directed to ensuring guarantees of protection of the person's rights by fair, effective and accessible trial.

7. Regarding the issue of assessment of the constitutionality of the challenged legal regulation, the Constitutional Court considers necessary to consider the issue in the context of peculiarities of constitutional legitimacy and of administrative litigation prescribed by protection of person's rights (right to access to court and fair and effective trial) prescribed by Articles 18 and 19 of the RA Constitution as well as due to newly revealed circumstances general adjudication of the institution of review of judicial act and deriving from the inquiries of the parties emphasizing in particular:

- To what extent the norms of Article 181 of the RA Administrative Procedure Code in legal sense guarantee precisely the possibility to assess this or that information (evidence) as "newly revealed circumstance", in particular, if the circumstance presented by the party of hearing was known to the court (examined by the court), would any other decision be adopted than the one which is challenged due to newly revealed circumstance,
- To what extent do the effective litigation of examination and assessment fully guarantee the possibility of assessment of this or that information (evidence) guarantee "newly revealed cir-

cumstances” and, in particular, to the sense that the circumstance submitted by the party of hearing was known to the court (examined by the court), then would any other decision be adopted than the one which is challenged due to newly revealed circumstance?

- To what extent by the challenged legal regulation do effective judicial processes of examination and assessment of this or that information (evidence) which contain attributes of the legal term of “newly revealed circumstance” (DCC-935) are guaranteed,
- To what extent the person’s right to fair, accessible and effective litigation prescribed by Articles 18 and 19 of the RA Constitution is guaranteed,
- To what extent is it legitimate to regulate the legal relations due to the newly revealed circumstances from the perspective of constitutional legitimacy?.

Taking into consideration the above-mentioned questions and general adjudication of institutional review of judgments due to the newly revealed circumstances, the Constitutional Court in its decisions expressed legal positions as well as analysis of the challenged regulation expressed in the context of the norms included in Chapter 25 titled “Review of the judgments due to new circumstances and newly revealed circumstances” of the RA Administrative Procedure Code, the Constitutional Court states that:

- Ensuring prescription of the institution of review of the judgments of the legitimacy and substantiality of the acts due to newly revealed circumstances in the RA Administrative Procedure Code as well as protection of the violated rights of a person an additional guarantee,
- For providing the study and proper legal assessment of the arguments and information assessed as “newly revealed circumstances” the legislator prescribes relevant procedure and legal status of the parties to proceeding which will allow in the framework of examination of the grounds prescribed in Article 181 of the RA Administrative Procedure Code to implement certain procedural rights and carry duties, amongst them prov-

ing the newly revealed circumstances in the court,

- For prescription of the grounds for newly revealed circumstances, the legislator was guided by the principle of limiting the list of possible information (facts) as for possible grounds for review of the judgment in force the criminal acts, committed only by the parties to proceeding (their representatives), judges as well as criminal acts available in the grounds for adoption of such a judgment and prescribed by the legislation, thus excluding objectively existing and (or) unknown to the parties to proceeding at the moment of adoption of judgment which are due to examination and real assessment of which would inevitably bring to the judgment other than the adopted one.

It should also be mentioned that no issue of constitutionality emerges in the framework of examined legal regulations in case of prescribing criminal acts in the judgment in force as a newly revealed circumstance. Availability of such circumstance can objectively be crucial for review of acts in force of the Administrative Court and for adopting just decisions. The RA Criminal Procedure Code and RA Civil Procedure Code provide *inter alia* the possibility of assessing such circumstances as “newly revealed” in the case of availability of relevant features. However, in such circumstances providing the judgments in legal force with legal exclusive significance essentially restrict the legal possibility of assessing such circumstances as newly revealed and review of acts in force of the Administrative Court (for instance, in the cases of determination of the criminal litigation and release from criminal liability both by amnesty or in other cases and procedure prescribed by the RA Criminal Code and the RA Criminal Procedure Code), when the fact of crime and the person who committed it are legally determined. Consequently, the Constitutional Court states that such legal regulation essentially limits possible margins of implementation of the institution of review of judgments by the above-mentioned grounding, and consequently it cannot serve as effective remedy for precise protection of the person’s rights.

It also follows from the legal content of the challenged norms that

the person is deprived of the possibility to challenge the judgment in force of the Administrative Court due to other circumstances which are assessed as “newly revealed circumstances,” in particular on the basis of newly revealed circumstances not linked to judicially determined crime, which at the moment of adoption of the judgment existed, were of significant importance for the fair adjudication of the case, but were not presented beyond the will of the parties to proceeding and were unknown to the court.

The Constitutional Court states that such legal regulation of review of judgments due to newly revealed circumstances, according to which the proper litigation of legal assessment of other factual circumstances which are of evidential significance, are essentially restricted in the cases when objective existence of such circumstances inevitably bring to (will bring to) other judgment than the one that was adopted before revealing those circumstances or which is similar to adoption of fair substantiated, legitimate judgment, consequently also restoration of the violated rights of the person, it restricts the right to effective and accessible court guaranteed by Articles 18 and 19 of the RA Constitution, contradicts the main objectives of justice and the principle of constitutional order prescribed in Article 1, 3 and Part 2 of Article 6 of the RA Constitution.

8. The Constitutional Court does not consider as substantiated the Respondent’s position, according to which provision by the legislator (unlike previous legal regulation (Article 134 of the RA Administrative Procedure Code (in the wording of 28.11.2007) prescription of precise list of circumstances assessed as grounds for “newly revealed” circumstances or not prescription of other such grounds is conditioned with the prescription of judicial principle on clarifying *ex officio* the actual circumstances by the court envisaged in Article 5 of the RA Administrative Procedure Code.

It is obvious that the legal requirement and procedural principle to clarify *ex officio* the actual circumstances of the case are conditioned with the peculiarities of the administrative procedure examination and, in particular, in the frames of adjudication of public legal disputes resolved by the court, by the unique role of the court

in the competitive relations of the parties to proceeding etc. Although the Constitutional Court states that any peculiarity of the litigation cannot restrict, by merits, the legitimacy of the adopted judgment, examination of the disputable circumstance, as well as newly revealed circumstance by fair, effective and accessible judicial examination and review of the adopted judgment in the case of availability of the necessary groundings.

The Constitutional Court considers necessary to state that in case of availability of the procedural principles of clarifying ex officio the factual circumstances of the case (which points out the Respondent), not the court but **the interested party of litigation on his/her own will and by his/her own initiative** is authorized with the right and responsibility of presenting the circumstances (evidence) assessed as newly revealed circumstances. In the framework of administrative litigation not any peculiarity of the certain consideration can be interpreted as groundings for restriction of access to court guaranteed by the Constitution.

The Constitutional Court, in a number of its decisions, referred in details to the problems of constitutional legitimacy of guaranteeing the right of access to court, as well as the right to fair trial, emphasizing their significance equally signifying them in all domains of judicial process (criminal, civil and administrative). Re-ascertaining the previously expressed legal positions, the Constitutional Court also finds that no procedural peculiarity or procedure may hinder or prevent the possibility of effective implementation of the right to apply to the court and destroy the meaning of the right stipulated by Article 18 of the RA Constitution or hinder its implementation.

At the same time the Constitutional Court finds necessary to refer to the legal position expressed by the ECHR regarding the restrictions of access to court, which emphasizes that for enjoying the right to apply to the court the state may define certain terms, "...the limitations applied must not restrict the access left to the individual in such a way or to such an extent that the very essence of the right is impaired. Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means

employed and the aim sought to be achieved” (Case of Khalfaouri v. France, application no. 34791/97, 14/03/2000).

The Constitutional Court states the principle of constitutional legal significance in any case of establishment of legislative order of realization of rights prescribed by Articles 18 and 19 of the RA Constitution as well as in the case of challenged legal regulation.

9. The Constitutional Court considers non-conforming from the perspective of constitutional legal content of Article 18 of the RA Constitution the legal position of the Respondent according to which in case of presence of this or that evidence grounding disputability of the judgment in force on the basis of the newly revealed circumstances, “the previously adopted judgment shall not be reviewed by the court, but, in the framework of relevant factual circumstance, the previously adopted administrative act shall be reviewed by the administrative body.” That is, the issue of regulation of legal relations related to review of the judgment in force due to new circumstances and eventually challenging legitimacy of the judgment and elimination of judicial error, which appeared due to newly revealed circumstances and adopting fair decision is of pivotal significance.

The Constitutional Court does not refer to the aims and tasks prescribed by the law on administrative litigation and administrative proceeding as well as to the interpretation of those legal processes and their constitutional content of the general legal regulative role and states that in the decisions DCC-652, DCC-665, DCC-673, DCC-690, DCC-719, DCC-954 and in a number of other decisions the Court referred to the issue of revealing the constitutional legal content of the right to judicial protection, the Constitutional Court expressed the legal position that, from the viewpoint of ensuring and protecting rights of a person, **the task of Article 18 of the RA Constitution is to guarantee the right to initiate litigation based on the person’s assertions on violation of right and elimination of consequences of such a violation.** The Constitutional Court stated that **the mentioned right is not subject to restriction.** Hence, based on the Respondent’s assertions the Constitutional Court re-confirms its above-mentioned position. If the legitimacy of

the judgment adopted due to other arguments (evidence) assessed as newly revealed circumstances is dubious, within the challenged legal regulation the legislator shall not restrict the legal possibility of challenging such an act which directly restricts the possibility of the person's rights and their judicial protection guaranteed by the RA Constitution but, in the scopes of relevant litigation frames, the legislator shall enlarge the remedies to examine in the framework of relevant litigation processes other circumstances assessed as "newly revealed" circumstances and as a result of their legal assessment provide fair adjudication of the case ensuring protection of person's rights pursuant to the constitutional legal content of Articles 1, 3 and Part 2 of Article 6, Articles 18 and 19 of the RA Constitution.

Simultaneously, the Constitutional Court states that in case the person did not apply to the court for protection of her/his rights but chose legally provided extrajudicial remedy (in this case – administrative authority) of protection of her/his rights and legitimate interests, such legal regulation cannot bring to restriction of the rights guaranteed by Articles 18 and 19 of the RA Constitution.

Based on the review of the Case and being governed by the requirements of Article 100, Point 1 and Article 102 of the Constitution of the Republic of Armenia, Articles 19, 63, 64 and 69 of the Law of the Republic of Armenia on the Constitutional Court, the Constitutional Court of the Republic of Armenia **HOLDS:**

1. To declare Article 181 of the Administrative Procedure Code of the Republic of Armenia, insofar as it blocks challenging of legality of effective judgments due to other legitimate "newly emerged" circumstances, resulting in limitation of the person's right to access to court and right to fair trial, as contradictory to Articles 1, 3, Article 6, Part 2, Articles 18 and 19 of the Constitution of the Republic of Armenia.

2. To determine 31 December, 2015 as the deadline for invalidation of norms declared as unconstitutional by this decision based on Article 102, Part 3 of the RA Constitution and Article 68, Part 15

of the RA Law on the Constitutional Court, considering the fact that the declaration of the norms in dispute as unconstitutional on the moment of the announcement of the decision of Constitutional Court, shall result in legislative gap which will distort the legal security to be established on the moment of the invalidation of the given norm, as well as enabling the National Assembly to bring the above-mentioned legal regulation in line with the requirements of this decision taking into consideration also the international legal experience regarding the issue.

3. In accordance with Article 102, Part 2 of the RA Constitution this decision is final and enters into force from the moment of its announcement.

Chairman

G. Harutyunyan

June 26, 2015

DCC-1222