

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 296 OF THE CRIMINAL PROCEDURE
CODE OF THE REPUBLIC OF ARMENIA WITH THE CONSTITUTION OF THE REPUBLIC
OF ARMENIA ON THE BASIS OF THE APPLICATION OF THE RA PROSECUTOR
GENERAL

Rapporteur V. Hovhannisyan

Based on the review of the Case and governed by Point 1 of Article 100, Points 1 and 7 of Article 101, and Article 102 of the Constitution of the Republic of Armenia (with Amendments through 2005), Articles 63, 64 and 71 of the Law of the Republic of Armenia on the Constitutional Court, the Constitutional Court of the Republic of Armenia **HOLDS:**

1. The expression “the indictment does not comply with the requirements of this Code” of Part 1 of Article 296 of the RA Criminal Procedure Code is in conformity with the Constitution of the Republic of Armenia in such constitutional legal content as:

a) the expression “indictment does not comply with the requirements of this Code” cannot be interpreted more broadly than the requirements prescribed in Articles 270 and 271 of the RA Criminal Procedure Code. The latter cannot be interpreted the way that this interpretation included the assessment of evidence or the court was provided with the possibility to show such behavior that the court is not competent to exercise at the given stage of the proceedings;

b) the return of the case to the prosecutor more than one time does not derive from the principle of the rule of law and can create a real threat of violation of the constitutional rights of a person.

2. The provision stipulated in the first sentence of Part 2 of Article 296 of the RA Criminal Procedure Code is in conformity with the Constitution of the Republic of Armenia in such constitutional legal content that, in all cases where the court returned the case to the prosecutor, the latter can send an indictment to the investigator with the aim of eliminating the shortcomings in compliance with the requirements of the law, following the deadlines set by the court.

3. Pursuant to Part 2 of Article 102 of the Constitution of the Republic of Armenia (with Amendments through 2005) this Decision is final and enters into force from the moment of the announcement.

December 5, 2017

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