

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

ON THE CASE CONCERNING THE CONFORMITY OF ARTICLE 204.38, PART 2 OF THE ADMINISTRATIVE PROCEDURE CODE OF THE REPUBLIC OF ARMENIA WITH THE CONSTITUTION OF THE REPUBLIC OF ARMENIA ON THE BASIS OF THE APPLICATION OF THE PUBLIC ORGANIZATION OF THE OFFICE OF THE HELSINKI CIVIL ASSEMBLY OF VANADZOR

Rapporteur K. Balayan

Proceeding from the results of consideration of the case and being ruled by Article 100, Point 1, Article 102 of the RA Constitution, Articles 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. Article 204.38, Part 2 of the RA Civil Procedure Code regarding proceeding of review of the judgment due to new circumstances is in conformity with the Constitution of the republic of Armenia, by the constitutional legal content, according to which,
 - a. judgment review due to new circumstances shall inevitably *ipso facto* bring to the vacation of the judgment where an unconstitutional norm was applied and/or the conventional right was violated, excluding the possibility to leave it in force.
 - b. the possibility not to modify the operative part of the reviewed judgment concerns only the new judgment adopted as a result of new consideration after vacation of judgment. The obligatory normative requirement to substantiate non-modification of the conclusive part based on grave arguments is a necessary guarantee for the protection of human rights.
2. Pursuant to Article 102, Part 2 of the RA Constitution this Decision is final and enters into force from the moment of its announcement.

18 September 2013

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