

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

**DECISION OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF ARMENIA ON  
THE CASE OF CONSTITUTIONALITY OF ARTICLES 5, 7, 8, 37, 38, 45, 49 AND 86 OF THE  
FUNDED PENSION LAW OF THE REPUBLIC OF ARMENIA ON THE BASIS OF THE  
APPLICATION OF THE DEPUTIES OF THE NATIONAL ASSEMBLY OF THE REPUBLIC  
OF ARMENIA**

Rapporteurs V. Hovhannisyan, K. Balayan

Based on the review of the Case and being governed by Article 100, Point 1, Article 101, Part 1, Point 3, Article 102 of the Constitution of the Republic of Armenia, Articles 63, 64 and 68 of the Law of the Republic of Armenia on the Constitutional Court, the Constitutional Court of the Republic of Armenia **HOLDS:**

1. To declare the provisions of Part 1, Article 5, Parts 1 and 11, Article 7, and Part 2, Article 13 of the Law of the Republic of Armenia on Funded Pensions systemically interrelated with the latter, in regard to the part that do not ensure the right of everyone to freely own, use and dispose of the wage belonging to him/her, and entail restriction of the people's right to property regardless of their free will, contradicting the requirements of Part 1, Article 8, Articles 31 and 43 of the Constitution of the Republic of Armenia and void.
2. To declare Part 1 Article 49, of the Law of the Republic of Armenia on Funded Pensions contradicting the requirements of Article 1, Part 2, Article 3 and Point 1, Article 83.5, of the Constitution of the Republic of Armenia and void, based on the circumstance of not stipulating certain guarantees for protection of rights equivalent to the principles of the rule of law and legal certainty and not clarifying the margins of discretion of executive power in the given legal relations.
3. To declare the provision "... terms and procedures for disposing of the latter ... shall be stipulated by the Government of the Republic of Armenia" stipulated by Article 2, Part 1, Point 6 of the Law of the Republic of Armenia on Funded Pensions, which is systemically interrelated with the articles in dispute, and Article 44, Part 1 of this Law, contradicting the requirements of Article 83.5, Point 1 of the Constitution of the Republic of Armenia and void.
4. To declare the provision "Requirements to the risk management system shall be stipulated by normative legal acts (regulations) of the Central Bank" stipulated by Article 41, Part 4 of the Law of the Republic of Armenia on Funded Pensions, which is systemically interrelated with the articles in dispute, contradicting the requirements of Article 83.5, Point 1 of the Constitution of the Republic of Armenia and void.

5. To declare the provision restricting the right to property by putting a lien on the property and based on administrative act by restrictions on the right to own, use or dispose of the property, stipulated by Part 2, Article 76 of the Law of the Republic of Armenia on Funded Pensions, which is systemically interrelated with the articles in dispute, contradicting the requirements of Part 1, Article 8, Articles 31 and 43 of the Constitution of the Republic of Armenia and void, also taking into account that in the respect of the Law in dispute, the legal relations concerning the given provision do not regard fulfillment of direct tax liabilities of those who make mandatory funded contributions /fiscal agent/.

6. Within the framework of legal positions in the instant Decision, (provisions in dispute) of Parts 2-10, Article 7, Articles 8, 37, 38, 45, Part 2 Article 49, and Article 86 of the Law of the Republic of Armenia on Funded Pensions are in conformity with the Constitution of the Republic of Armenia by the constitutional legal content, according to which, legal regulations stipulated therein **cannot be based, interpreted and applied in the context of legal regulation supposing restrictions of the right to property regardless of people's discretion, and the rights of pension fund managers must be exercised in accordance with the principle of balancing only with equivalent obligations.**

7. Taking into account that the Law of the Republic of Armenia on Funded Pensions, in particular, the legal provisions declared contradicting the Constitution the Republic of Armenia by Points 1-5 of the operative part of the instant Decision, are systematically interrelated with legal regulations stipulated by more than 50 laws and more than eighty other normative legal acts of the Republic of Armenia, and, based on the instant Decision, many provisions therein are subject to review by the procedure stipulated by the law, as well as bearing in mind the requirement of the law on systematically not jeopardizing legal security, based on Part 3, Article 102 of the Constitution of the Republic of Armenia and Part 15, Article 68 of the Law of the Republic of Armenia on the Constitutional Court, due to the instant Decision the deadline for invalidating the legal norms declared contradicting the Constitution the Republic of Armenia shall be 30 September 2014, providing the National Assembly of the Republic of Armenia and the Government of the Republic of Armenia with the opportunity, within the framework of their powers, to make the legal regulations of the Law of the Republic of Armenia on Funded Pensions and other laws and normative legal acts systemically interrelated with the latter, correspond to the requirements of the instant Decision.

Based on the new legal regulations following from the requirements of the instant Decision and taking into account the requirements of Part 4, Article 42 of the Constitution the Republic of Armenia, previously made contributions shall be subject to recount.

8. Pursuant to Part 2, Article 102 of the Constitution of the Republic of Armenia this Decision is final and enters into force from the moment of its announcement.

April 2, 2014  
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