

SPEECH

DEDICATED TO THE 20TH ANNIVERSARY OF THE FORMATION OF THE CONSTITUTIONAL COURT OF RA

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Your Excellency President of the Republic of Armenia,

Distinguished guests and participants,

On 6th of February of the year 1996, the Constitutional Court of Armenia was formed. The first constitutional court in the world was formed in the year 1920. This not full 100-year-old experience undeniably proved that institutes of constitutional justice are necessary elements of rule-of-law State and are meant to have a solid role in the process of guaranteeing the supremacy of the Constitution and the rule of law. It was also documented, that in order to perform that mission, a certain environment of constitutional democracy, constitutionalization of social relations, necessary and sufficient level of constitutional culture are indispensable.

Starting from the first days of its formation, the Constitutional Court of the Republic of Armenia, in a legal environment typical for a country in transition, not only brought great contribution in the process of ensuring the constitutionality of legal acts, but also assumed a prominent role in the consistent process of establishing constitutionalism in the country.

Let us briefly reflect on the path that we have passed with numbers and facts.

Throughout the last twenty years the Constitutional Court of the Republic of Armenia as a result of trial adopted final decisions on 1252 cases, by expressing important legal positions which are sources of constitutional law, the Court adopted more than 1500 procedural decisions. The Court have found fully or partially invalid and in non-conformity with the Constitution 209 articles and provisions of 67 laws and other normative-legal acts, including 19 articles of the Civil procedural code of RA and 37 articles of the Criminal procedural code of RA or a separate provision, also by putting forward the necessity of systemic reform of those codes.

Taking into account the necessity of ensuring constitutional legality in the country, legal institutes were completely found unconstitutional, such as the institute of sending a case for additional pre-trial investigation, the institute of review of cases based on new circumstances, the previous solutions in force regarding formation of courts in the spheres of criminal and administrative procedure.

In the above mentioned spheres based on the decisions of the constitutional court systemic amendments were made, while more than hundred legislative initiatives concerning amendments in the legislative acts in force were presented in the National Assembly.

Throughout the last years the Constitutional Court examined 43 electoral disputes. The decisions of electoral commissions or results of elections in 8 electoral territories, as well as voting results in 40 precincts were found null and void.

Taking into examination the constitutionality of the commitments of the Republic of Armenia based on international treaties, various provisions of five international treaties were found contradicting to the Constitution, while the examination of 16 treaties as a result of unconformity with the requirements of law was rejected.

For the activities of the Court, a qualitatively new phase started after the constitutional amendments in the year 2005, after which citizens received the opportunity to apply to the Constitutional Court. Currently in the Constitutional Court more than 90% of cases concerning the constitutionality of laws, are examined based on applications by citizens.

Annually more than 1600 physical persons and legal entities apply to the Constitutional Court. Approximately 7.5% of applications are accepted for examination (in international practice the stated number varies from 2.5 to 5 %, which is also conditioned by peculiarities of the institute of the individual constitutional complaint).

Throughout these years the Constitutional Court of the Republic of Armenia has become a founding member of the World Conference on Constitutional Justice, also the Chairman of the Bureau of the Congress of the above stated organization which presents 98 countries, member of the Conference of European Constitutional Courts, founding member and invariable president of the Conference of Constitutional Control Organs of the Countries of New Democracy, and member of European Commission for Democracy through Law (Venice Commission) of the Council of Europe and a member of the Bureau of that organization.

The Constitutional Court publishes two international journals which are being delivered to more than hundred countries around the world, also an official Bulletin in three languages, particularly in Armenian, Russian and English.

The President and members of the Constitutional Court have participated in more than 80 international conferences, published 51 monographs, 420 scientific articles dedicated to urgent issues concerning constitutional justice.

Occasionally by the initiative of the Constitutional Court “Constitution and law” Republican Olympiads were organized, in which more than 25 thousand students and pupils had participated.

In international practice the Annual Yerevan International Conference dedicated to critical issues of constitutional justice which is jointly organized by the Constitutional Court of the Republic of Armenia and the Venice Commission of the Council of Europe, has received wide recognition, and throughout these years more than 1200 recognized constitutionalists from various countries have participated in it.

With the purpose of exchange of experience Armenia was visited by delegations from Federal Republic of Germany, Russian Federation, Austria, Spain, Portugal, Italy, Poland, Hungary, Czech Republic, Romania, Georgia, Lithuania, Latvia, Thailand, South Korea and by Constitutional Courts of various other countries and also by the delegation of the Constitutional Council of France. By the invitation of the Constitutional Court, Armenia was visited by three Presidents of the European Court of Human Rights. Few days ago, the current President-in-Office of the ECHR has also been invited to visit our country in October.

According to the unconcealed conviction of our colleagues from numerous countries, in the sphere of constitutional justice Armenia has become one of the internationally recognized centers.

The list of enumerations can go on, however that may be done on another occasion. Within the framework of this jubilee reception I would also prefer to reflect on separate constitutional-legal issues which require urgent solutions, as in our country despite the work that has been done, there is still a great deal of work to do for ensuring the rule of law and the supremacy of the Constitution.

First, in our country a necessary level of constitutional legal-thinking has not yet formed, the rule of law has not become the core for the individual’s social conduct, for the political conduct of political institutions and for the public conduct of public authorities,

second, the systemic entirety of constitutional review has not been ensured. Only through judicial constitutional review and without complete realization of the functions of other institutes in this sphere, it is impossible to effectively ensure the supremacy of the Constitution and the rule of law,

third, the present functional and institutional solutions do not ensure the direct applicability of human rights, the viability of the system for guaranteeing, ensuring and protecting it is insufficient,

forth, throughout these years the Constitutional Court operated in the conditions of incomplete system of constitutional justice, the institute of full constitutional complaint has not been established, sufficient legal guarantees for ensuring the enforcement of the decisions of the Constitutional Court, which has numerously been recorded in the Annual Reports of the Constitutional Court. Last year an even more bizarre case had been recorded, when in case of a postponed decision of the Constitutional Court The National Assembly by failing to conduct adequate legislative amendments, created a real threat to the legal security,

fifth, institutes, prescribed by the law, which are the representatives of various bodies of state power, are almost lying idle in the Constitutional Court.

sixth, the Government of RA, the local self-government bodies are not exercising their constitutional power for applying to the Constitutional Court to raise questions of constitutionality of laws and other normative-legal acts, while courts are not acting with sufficient activity,

seventh, the level of constitutionalization of social relations in our country is still low, the deficit of constitutionalism, the perversions of fundamental constitutional values and principles have not been overcome, the discrepancies between the Constitution, legal system and the legal-enforcement practice and also a specific system of constitutional monitoring has not been established, in which an important role should be reserved for civil society institutes, while the coalescence between political, economic and administrative powers is distorting the realization of the principle of separation and balance of powers, as a result of which it becomes a threat to national security.

The latest constitutional reforms have created serious prerequisites for giving systemic solutions to the listed issues. However they can be realized only in the result of systemic and consistent efforts towards ensuring the necessary legislative guarantees.

Honorable Mr. President, distinguished participants,

Our country is destined to enter a qualitatively new phase of forming a democratic and rule-of-law State, in which I am sure the Constitutional Court of the Republic of Armenia will also have its solid role. I am sure, that the positive experience from last years and new constitutional-legal guarantees can become an important guarantee for ensuring it.

On behalf of the whole staff of the Constitutional Court, I thank you for participating at this jubilee event and I wish us all fruitful activity for the glory of democratic and rule-of-law Republic of Armenia.

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