

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

**ON THE CASE CONCERNING THE DETERMINATION OF THE ISSUE REGARDING THE CONFORMITY OF PART 1, POINT 1, ARTICLE 223, PART 2, ARTICLE 231, PART 1 POINTS 3-6, ARTICLE 233, PARTS 2 AND 4 OF THE SAME ARTICLE OF THE RA CIVIL PROCEDURE CODE, ARTICLE 29.1 OF THE RA LAW ON “ADVOCACY”, PART 1, POINT 1, ARTICLE 404 AND POINT 3 OF THE RA CRIMINAL PROCEDURE CODE (PART 1, POINT 1, ARTICLE 404 IN THE WORDING OF 28.11.2007) AND POINT 6, ARTICLE 13 OF THE RA JUDICIAL CODE WITH THE CONSTITUTION OF THE REPUBLIC OF ARMENIA ON THE BASIS OF THE APPLICATIONS OF THE CITIZENS HOVHANNES RUSHANYAN, GEVORG GYOZALYAN, KHACHATUR SHAHINYAN, RUBEN MANUKYAN, HRACH VARDANYAN, MIQAYEL, MARIETTA AND MADLENA BABALYANS, HAKOB RAFYAN, HAYK MIKAYELYAN AND SAMVEL MIKAYELYAN**

Rapporteurs V. Hovhannisyan, H. Nazaryan

Proceeding from the results of examination of the case and ruled by articles 100(1), 102 of the Constitution of the Republic of Armenia, articles 63, 64, and 69 of the RA Law on Constitutional Court, the Constitutional Court of the Republic of Armenia **DECIDES:**

1. According to Article 60(1) of the RA Law on Constitutional Court to dismiss the consideration of the case regarding Part 1, Point 1, Article 233 and Part 4, Article 233 of Civil Procedure Code of the Republic of Armenia, as there is a prior decision of the Constitutional Court N DCC-754 on the constitutionality of Part 4, Article 233 of the Civil Procedure Code of the Republic of Armenia of 27 May 2008, and Point 6, Part 1, Article 233 of the RA Civil Procedure Code obtains legal certainty only in the combination with Part 4, Article 233 of the Code.

2. To declare Part 2, Article 40, Part 1 Point 1, Article 233, Part 2 Article 231 in regard to the institute of the accredited advocate, Part 2, Article 233 in regard to the phrase “with the exception of the cases of returning the cassation appeal on the ground of absence of Sub Point 1, Point 1, Article 234 of the given Code” of the RA Civil Procedure Code contradicting the requirements of the Articles 18 and 19 of the Constitution of the Republic of Armenia and invalid.

3. To declare Part 1, Point 1, Article 404, in the wording of 28.11.2007, in regard to lodging an appeal through the accredited advocate, Article 426.2 in regard to the right of the accredited advocate to submit an application on the revision of judicial acts based on newly appeared circumstances, Article 426.5 in regard to sending the announcements and reports on newly appeared circumstances to accredited advocate (part 1), as well as the right of the accredited advocate in the matters of initiating proceedings based on the newly appeared circumstances and conducting the research (Part 4), Article 426.6 in regard to the actions of accredited advocates (Parts 2 and 3) of the RA Criminal Procedure

Code incompatible with the requirements of Articles 18 and 19 of the Constitution of the Republic of Armenia and invalid.

4. To declare Article 29.1 of the RA Law on “Advocacy” incompatible with the requirements of Articles 14.1, 18 and 19 of the Constitution of the Republic of Armenia and invalid.

5. Part 1, Points 3, 4 And 5 Article 233 of the RA Civil Procedure Code are in conformity with the Constitution of the Republic of Armenia within the scopes of the legal positions of the Constitutional Court of the RA.

6. Point 6, Article 13 of the Judicial Code of the RA is in conformity with the Constitution of the Republic of Armenia within the scopes of legal positions of the Constitutional Court of the RA expressed in this decision.

7. Considering that cancelation of the challenged legal provisions from the moment of adopting the decision of the Constitutional Court can create a legal gap which distorts the legal security which will be established by the elimination of those norms, in accordance with Part 3 Article 102 of the RA Constitution and Parts 15-17, Article 68 of the RA Law on Constitutional Court to determine December 31 2008 as the deadline for the invalidation of the legal norms which are recognized incompatible with the RA Constitution and invalid by Parts 2, 3 and 4 of the concluding part of this decision, enabling the RA National Assembly to conform the legislative regulations completely to the requirements of this decision.

8. Pursuant to Part 2, Article 102 of the RA Constitution this decision is final and enters into force from the date of publication.

October 8, 2008

DCC-765