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PRESS RELEASE

The Constitutional Court of the RA satisfied the application of the Defender

In the session taken place on November 23, 2010, the Constitutional Court of the Republic of Armenia, satisfied the application submitted by the Human Rights Defender of the Republic of Armenia and recognized Paragraph 1 of the Article 284 of the Criminal Procedure Code of the Republic of Armenia contradicting to the Constitution of the Republic of Armenia and invalid.

Paragraph 1 of the Article 284 of the Criminal Procedure Code of the Republic of Armenia stated, that operative-searching activities which restrict individuals' right for the secrecy of correspondence, telephone conversations, mail, telegram and other communications, except the cases when the one of the interlocutors gave his/her consent to supervision, are carried out only by court decision.

It should be recalled, that according to Paragraph 1 of the Article 23 of the Constitution of the Republic of Armenia everyone shall have the right to respect for his private and family life. And according to the Paragraph 5 of the Article 23 of the Constitution of the Republic of Armenia everyone shall have the right to secrecy of correspondence, telephone conversations, mail, telegram and other communications, which may be restricted only by court decision in cases and in conformity with the procedure prescribed by the law.

It followed from the challenged norm, that should one of the interlocutors gave his/her consent to supervision, then operative-searching activities body might without court's decision carry out that action. The restriction of this right without court's decision, taking as basis only the decision of the operative-searching activities body and the prior consent of the one of the interlocutors to supervision are in direct contradiction with the Constitution of the Republic of Armenia, as the Constitution of the Republic of Armenia unequivocally states that everyone's right to secrecy of correspondence, telephone conversations, mail, telegram and other communications, may be restricted only by court decision in cases and in conformity with the procedure prescribed by the law. The Constitution of the Republic of Armenia does not foresee any exception from this rule.

It should be reminded, that on June 10, 2010, the Human Rights Defender of the Republic of Armenia lodged an appeal with the Constitutional Court of the Republic of Armenia, challenging the conformity of Paragraph 1 of the Article 284 of the Criminal Procedure Code of the Republic of Armenia with Paragraphs 1 and 5 of the Article 23 of the Constitution of the Republic of Armenia.

Information and Public Relations Department of HRDO of RA

