

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

**THE CASE ON CONFORMITY OF ARTICLE 35, PART 6, PARAGRAPH 1 AND PART 9,
PARAGRAPH 1, ARTICLE 41, PART 2, POINT 3 OF THE LAW OF THE REPUBLIC OF ARMENIA
ON STATE PENSIONS WITH THE CONSTITUTION OF THE REPUBLIC OF ARMENIA ON THE
BASIS OF THE APPLICATION OF THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF
ARMENIA**

Yerevan

02 October 2012

The Constitutional Court of the Republic of Armenia composed of G. Harutyunyan (Chairman), Justices K. Balayan, F. Tokhyan (Rapporteur), M. Topuzyan, A. Khachatryan, V. Hovhannisyan, H. Nazaryan A. Petrosyan,

with the participation of the representative of the Applicant A. Vardevanyan, the Member of the Staff of the RA Human Rights Defender,

the representative of the Respondent H. Sardaryan, the Leading Specialist of the Legal Expertise Division of the Legal Division of the RA National Assembly Staff,

the representative of the RA Government A. Asatryan, the Minister of Labour and Social Issues of the RA invited to the session of the RA Constitutional Court based on the Decision PDCC-29 of the RA Constitutional Court dated 11.05.2012,

pursuant to Article 100, Point 1, Article 101, Part 1, Point 8 of the Constitution of the Republic of Armenia, Articles 25, 38 and 68 of the Law of the Republic of Armenia on the Constitutional Court,

examined in a public hearing by an oral procedure the Case on conformity of Article 35, Part 6, Paragraph 1 and Part 9, Paragraph 1, Article 41, Part 2, Point 3 of the Law of the Republic of Armenia on State Pensions with the Constitution of the Republic of Armenia on the basis of the application of the Human Rights Defender of the Republic of Armenia.

The Case was initiated on the basis of the application submitted to the Constitutional Court of the Republic of Armenia by the RA Human Rights Defender on 24.02.2012.

Having examined the report of the Rapporteur on the Case, the explanations of the representatives of the Applicant and the Respondent, the clarifications of the Representative of the RA Government, as well as having examined the RA Law on State Pensions, international legal instruments concerning the matter of the Application and other documents of the Case, the Constitutional Court of the Republic of Armenia **ESTABLISHES:**

1. The RA law on State Pensions was adopted by the RA National Assembly on 22 December 2010, signed by the RA President on 30 December 2010 and came into force on 1 January 2011.

After submission of the RA Human Rights Defender's Application to the RA Constitutional Court before the beginning of the Case consideration, the challenged provisions of Article 35, Part 9, Paragraph 1 of the Law were amended by the RA Law HO-100-N dated 19.03.2012. Taking into consideration the above mentioned, the provisions of Article 35, Part 9, Paragraph 1 of the Law are being considered taking into account those amendments as well.

Paragraph 1 of Part 6 of Article 35 of the RA Law on State Pensions is titled "Payment of Pensions" and prescribes: "A pensioner in receipt of pension in non-cash manner shall be obligated to submit to the bank at least on annual basis a document on his /her well being verified by the notary, who is conducting activities in the Republic of Armenia or to show up to the bank in person and make a declaration about his /her well being."

Paragraph 1 of Part 9 of Article 35 prescribes: “The pension may also be paid when submitting the power of attorney verified by a notary conducting activities in the Republic of Armenia to the unit assigning pensions.”

Due to amendment made by HO-100-N of the RA Law dated 19.03.2012 to Paragraph 1 of Part 9 of the challenged Article 35, the latter prescribes the following legal regulation: “The pension shall also be paid by power of attorney verified by a notary conducting activities in the Republic of Armenia and provided in the Republic of Armenia by the pensioner (legal representative, i.e., parent, adopter or custodian if the pensioner is underage or under custody), if the written application about it and the power of attorney are submitted to the unit assigning pensions. Pension shall not be paid by the re-authorized power of attorney.”

The challenged Article 41, Part 2, Point 3 of the Law, titled “Termination and Resumption of the Right to Pension, Termination and Resumption of Pension Payments” prescribes that payment of pension shall be ceased “... in the case of failure to submit documents or make a declaration in the manner prescribed by Article 35, Point 6 of this Law.”

2. The Applicant, referring the legal provisions expressed in the Decision DCC-731 of the Constitutional Court concerning prohibition of the discrimination in the sphere of pension security, states that the norms in dispute contradict Articles 6, 14.1, 37 and 43 of the RA Constitution. According to the Applicant, the requirements for exercising the right to pension prescribed in Paragraphs 1, Parts 6 and 9 of Article 35 of the Law in concern with the citizens residing (staying) outside the RA territory leads to the restriction of the social security of a person guaranteed by Article 37 of the RA Constitution to the extent, which is not only unproportional from the perspective of Article 43 of the Constitution, but also does not have objective and rational reasoning and leads to distinction based only on the place of residence (staying) between the persons (pensioners) with the same status.

The Applicant also finds that prescribing differentiation based only on place of residence (staying) between the pensioners residing in the RA territory and residing (staying) outside the RA territory, is not consonant to the principle of equity before the law prescribed in Article 14.1 of the RA Constitution from the perspective of the possibility to receive the pension de facto, and accordingly to the legal positions of the RA Constitutional Court. The Applicant grounds the alleged contradiction between Paragraphs 1, Parts 6 and 9 of Article 35 of the Law and Article 43 of the RA Constitution, on the statement that the challenged restriction to the right to pension, which is based on the requirements prescribed by law, does not obviously correspond the objective of verification of the fact of the pensioner’s well-being. By the way, the Applicant for basing his arguments from the above mentioned perspective refers, in particular, Article 4 of the International Covenant on Economic, Social and Cultural Rights and a number of other international legal instruments.

The applicant grounds the alleged unconstitutionality of Article 41, Part 2, Point 3 of the Law in the context of his reasoning concerning Paragraphs 1, Parts 6 and 9 of Article 35 of the Law, taking into consideration the interconnection of Article 41, Part 2, Point 3 of the Law with the provisions of Paragraphs 1, Parts 6 and 9 of Article 35 of the Law.

Simultaneously, touching upon the law enforcement practice and referring a number of international treaties regarding mutual recognition of documents which are ratified by the Republic of Armenia and, as a proof, quoting the note No. AGG/SS-1-1/1013-12 of the RA Minister of Labor and Social Issues, the Applicant states that the challenged provisions of the Law are implemented by the interpretation contradicting the requirements of Article 6 of the RA Constitution.

The Applicant also concluded that the issue mainly concerns not the content of the norms of the Law, but their incorrect implementation.

3. The Respondent objected the Applicant's arguments, stating that the challenged legal provisions are in conformity with the RA Constitution. In previously presented written explanations the Respondent stated that the citizen of the Republic of Armenia, who departed the Republic of Armenia for more than six months or took up residency in a foreign state for more than six months, by dropping from the registration, **loses the right to receive a pension**, except for the persons who depart (have departed) to take up permanent residency in the countries which had signed intergovernmental agreement with the Republic of Armenia on cooperation in the sphere of pension security. They, as well as the foreign citizens and stateless persons, **may renew their right to pension** in accordance with Article 41, Part 3.2 of the RA Law on State Pensions, if they are registered in the place of residency in the Republic of Armenia.

According to the written explanation of the Respondent, the raised question **should be discussed only regarding the pensioners, who departed the Republic of Armenia for up to six months**. In concern with the latter, the Respondent thinks that in such cases Article 6 of the RA Constitution shall be implemented. The Respondent also thinks that problems may occur in the law enforcement practice if the corresponding authorized body does not possess with technical capacities to control the entrance into and exit out of the Republic of Armenia of the persons entitled to receive pension.

During oral explanations the Respondent mentioned that "Currently the state policy in the sphere of social security is built on the principle, according to which, if there is a pensioner, there is a payment, if no pensioner, no payment. The mentioned principle is also reflected in the RA Law on State Pensions." Actually, the Respondent continues insisting on his above mentioned position concerning the issue.

The Respondent also finds that "Taking into consideration the financial capacities of our country, the legislator defined additional conditions for the implementation of the right to receive pension for the citizens residing outside of the RA, which... complicate the implementation of this right, but, as such, they are not aimed at the restriction of the right to pension."

Concerning the contradiction which, according to the Applicant, has occurred between the challenged provisions of the Law and Article 14.1 of the Constitution, the Respondent, on the basis of interpretation of notion "discrimination", finds that the challenged legislative provisions do not contradict Article 14.1 of the Constitution, as there is obviously no expression of discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, belonging to a national minority, property, birth, disability, age or other personal or social circumstances.

Concerning the contradiction between the challenged provisions of the Law and Article 37 of the Constitution, on the basis of the analysis of certain articles of the Law, the Applicant finds that failure of the pensioner to submit to the bank the documents prescribed in Article 35, Part 6 of the Law, i.e., a document on his /her well being verified by the notary, who is conducting activities in the Republic of Armenia or to show up to the bank in person and make a declaration about his /her well being, does not restrict or terminate the right of a person in receipt of pension in non-cash manner, but terminates the payment of a pension which renews, as well as the amounts of unpaid pensions are paid after submitting to the bank the above mentioned documents.

Touching upon the document prescribed in Article 35, Part 9 of the Law, i.e. power of attorney, the Respondent states the requirements presented to the form of the power of attorney aim to ensure reliability in the pension relations and are significant for the implementation of the pension right. In this concern the respondent also finds that not following the requirements presented to the form of the power of attorney does not deprive the person from the right to receive a pension, but temporarily terminates the right to receive the

pension, which is either reconciled, amongst the others, after submitting the power of attorney or the pension is assigned.

4. Taking into consideration that a number of arguments in the Respondent's explanations and the RA Government Representative's clarifications, may have an essential impact on the contents of the constitutional – legal dispute, the Constitutional Court first necessitates touching upon the statement according to which the main task of the challenged law is solving the social security problem and that the citizen of the Republic of Armenia, who departed the Republic of Armenia for more than six months or took up residence out of the RA territory for more than six months, loses the right to receive the pension except for the persons who departed (have departed) to take up permanent residency in the countries which had signed intergovernmental agreement with the Republic of Armenia in the sphere of pension security.

The analysis of Article 7, Article 33, Part 1, Paragraph 1 and Part 7, Point 2, Article 41, Part 5 shows that the **right to pensions, the right to receive a pension, restoration of the right to receive a pension and a resumption of the payment of a pension** of the citizen of the Republic of Armenia, foreign citizen, person with dual citizenship or stateless person is conditioned with the registration of the residence of the Republic of Armenia based on the data on the address of registration of a person who enjoys the right to pension in the Republic of Armenia available in the state register of population of the Republic of Armenia.

What concerns the termination of the right to receive a pension **after assignment of the pension**, the combined analysis of the relevant provisions of the RA Law on State Pensions, in particular Article 7 titled "Right to Pension and Eligibility for Receiving Pension" and Article 41 titled "Termination and Resumption of the Right to Pension, Termination and Resumption of Pension Payments" states that the legislator conditions forfeiting the right to receive a pension with the fact of terminating residence in the Republic of Armenia and residing in another country or dropping from the registration of residence in the Republic of Armenia only for foreign citizens, stateless persons and dual citizens accordingly. Meanwhile, in the case of the RA citizens forfeiting of the right to receive pension is conditioned with amongst the others **the fact of termination of the RA citizenship** (Article 41, Part 1, Point 7 of the Law) and in concern with the RA citizens Article 41 of the Law does not prescribe the circumstance of dropping out of the registration of the residence of the Republic of Armenia as a ground to terminate the right to receive a pension **despite the fact whether the RA citizen departed to the foreign state for six months or more, as well as despite the circumstance whether the foreign state has signed intergovernmental agreement in the sphere of pension security with the Republic of Armenia.**

The Constitutional Court states that in practice such situations are not excluded, when the RA citizen because of personal motivation (e.g., long-term treatment, etc) resides in the foreign country for more than six months. In this concern, on the basis of analysis of the RA legislation, in particular the RA Law on State Register of Population the Constitutional Court also states that the mentioned case automatically does not cause termination of the registration of residence in the Republic of Armenia of the citizen or obligation to forward the pension file to that state.

Based on the above mentioned, the Constitutional Court does not consider the interpretation of the provisions of the Law, according to which the citizen of the Republic of Armenia, who resides outside of the territory of the Republic of Armenia for more than six months, forfeits the right to receive pension, to be well-founded and justified.

5. Within the constitutional legal dispute in instant case, the Constitutional Court also necessitates clarifying:

- whether the requirement to submit documents prescribed by Article 35, Part 6 of the RA law on State Pensions is justified in the sense of the constitutional legal contents,
- the scope of implementation of the current norms in the RA legislation concerning the institution of “the power of attorney” in the concerned legal relations,
- the scope of implementation of the norms prescribed in the RA relevant international agreements to the concerned legal relation.

To assess the lawfulness of the requirement to submit documents prescribed by Article 35, Part 6 of the RA Law on State Pensions, the Constitutional Court first necessitated clarifying the aim pursued by normative provisions concerning the obligation to submit the mentioned documents.

The Constitutional Court states that the legislator, stipulating the obligation to submit the documents in receipt of pension in non-cash manner prescribed by Article 35, Part 6 of the Law, i.e. the document on his /her well being verified by the notary, who is conducting activities in the Republic of Armenia, or to make a declaration about his/her well-being, pursues the legitimate aim to prevent payments of pension to the deceased pensioner and to use the budgetary funds effectively.

The appropriateness of definition of the mentioned aim is another issue, taking into consideration and not excluding the circumstances when within one year after submitting the above mentioned documents to the bank the citizen can decease or within one year after submitting the mentioned documents to the bank the citizen before his/her death can give the power of attorney to another person in accordance with Article 35, Part 9 of the Law. Besides, in accordance with Article 35, Part 6, Paragraph 3 of the RA Law on State Pensions, the amount of pension paid during the months following the death of the pensioner shall be subject to return to the state budget of the Republic of Armenia. In this regard, the Constitutional Court, taking into consideration also the discretion of the State to prescribe the forms of pension, the procedure and conditions of their assignment, states that, nevertheless, the definition of the obligation to submit documents prescribed by Article 35, Part 6 of the Law by itself does not cause the issue of constitutionality.

6. Regarding the issue of implementation of the current norms of the RA legislation concerning the institution of “Power of Attorney” in the frames of concerned legal regulation, the Constitutional Court states that Article 321, Part 3 of the RA Civil Code points out the subjects, who may provide the powers of attorney equivalent to ones verified by the notary. Moreover, Part 4 of the Article prescribes a special legal regulation for certain cases, including the power of attorney to receive a pension. In accordance with that norm, the organization where the pensioner works, the local self-government body of his/her residence and the administration of the hospital where he/she undergoes treatment can also verify the power of attorney.

Regarding the power of attorney verified by the subjects prescribed by Article 321, Part 3 of the RA Civil Code, Article 35, Part 9 of the RA Law on State Pensions stipulates a special legal regulation only concerning the power of attorney verified by the head of penitentiary institution or psychiatric hospital making it equivalent to the one verified by the notary. In this concern, the Constitutional Court, basing on Article 9, Part 6 of the Ra Law on Legal Acts, which prescribes that “In the field of legal relations regulated by a Code all other laws of the Republic of Armenia must comply with Codes,” as well as the requirement of Article 1, Part 1 of the RA Civil Code, according to which “Norms of civil law contained in other laws must correspond to the present Code,” finds that **“While implementing the RA Law on State Pensions the power of attorneys verified by the subjects mentioned in Article 321, Parts 3 and 4 shall also be considered as grounds in the law enforcement practice.”**

7. The issue must be addressed also within the context of the implementation of the norms stipulated in the RA relevant international treaties to the concerned legal relations and to be considered from the perceptive of the interrelation between “the pensioner residing in the state which has signed the inter-state agreement in the field of pension security and the pensioner residing in the state member to the Hague Convention of October 5 1961, Abolishing the Requirement of Legalization for Foreign Public Documents or in the state which is member of a number of international multilateral and bilateral treaties which regulate legal relations connected with the mutual recognition of the validity of the documents provided by the foreign competent bodies“. With regard this, the Constitutional Court states that according to Article 6, Part 4 of the RA Constitution if a ratified international treaty stipulates norms other than those stipulated in the laws, the norms of the treaty shall prevail. In its decision DCC-966 the Constitutional Court touched upon the contents of Article 6, Part 4 of the RA Constitution and mentioned that “...the RA international treaties are normative legal acts which are consistent part of the RA legal system, i.e. contain mandatory rules for the subjects of the relevant sphere of legal regulation, have a higher legal force than the RA laws and other legal acts, are subject to mandatory execution by all state and local self government bodies and officials of the RA throughout the entire territory of the RA”.

Article 3 of the RA Law on State Pensions prescribe that the relations pertaining to the state pension security are regulated by the RA Constitution, **RA international treaties**, the mentioned law, other laws and other legal acts. Pursuant to Article 35, Part 9, Paragraph three of the same Law in the field of the RA pension security in case of forwarding the pension file of the pensioner leaving (left) for a permanent residence to a country with which the Republic of Armenia has concluded an intergovernmental agreement in the pension security sector, the overdue pension of the given pensioner shall be paid also on the basis of the power of attorney verified by the notary conducting activities in the given country.

The Constitutional Court states that in the law enforcement practice **the abovementioned norms** of the RA Law on State Pensions **are interpreted narrowly**, and in the process of implementation of the challenged legislative provisions, the law enforcers considered as applicable only the international treaties, which exclusively touched upon the field of the social security. Meanwhile the Republic of Armenia is a member to a number of international multilateral and bilateral treaties which regulate legal relations connected with the mutual recognition of the validity of the documents provided by the foreign competent bodies and authorized persons and which are implemented in every field of the public life, including the sphere of social security.

For example, the Republic of Armenia participates to the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters signed on 07.10.2002 in Kishinev in the frames of the CIS, Article 43 of Part 4 titled “Property Legal Relations” of which prescribes: “The form and term of validity of the power of attorney is determined by the legislation of the contracted party on whose territory it is provided. Such a power of attorney, with the notarized translation into the language of the contracting party on whose territory it shall be used or into Russian, shall be accepted without any special verification in the territories of other contracting parties.”

Pursuant to Article 23, Point1 of the Agreement on Legal Assistance in Civil and Criminal Matters signed between the Republic of Armenia and Romania, the documents prepared or verified by one of the institutions of justice or other competent bodies, as well as the documents signed by the private persons, where the year, month and date is mentioned and the validity of the signature of the private persons is verified in accordance with the prescribed manner, are valid in the territory of the other Contracting Party without any verification. The same rule is also applied to the excerpts from the documents and copies if they are verified as authentic copies. In accordance with Point 2 of the same Article, the documents, mentioned in Point 1 of that

Article, **which are considered as official documents in the territory of one Contracting party, have the same legal force in the territory of the other Contracting party**, as the same type of documents prepared by the last Contracting Party.

Pursuant to Article 22 of the Agreement on Legal Assistance in Civil Matters signed between the Republic of Armenia and Republic of Bulgaria, the official documents prepared in the territory of one of the contracting parties (including the notary documents) are exempt from the verification or similar conditionalities if necessity arises to submit them in the territory of the other Contracting Party. In accordance with Article 25 of the Agreement, the documents prepared or verified by the court or other institution of the Contracting Party are valid in case of availability of the official stamp of the institution of that Contracting Party. They are accepted without verification by the court and other institution of the other Contracting Party.

In accordance with Article 25 of the Agreement on Legal Assistance in Civil Matters signed between the Republic of Armenia and Georgia, the documents prepared or verified by the court or other institution of the Contracting Party are valid in case of availability of the official stamp of the institution of that Contracting Party. They are accepted as such without verification by the court and other institution of the other Contracting Party.

Pursuant to Article 13, Point 1 of the Agreement on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters signed between the Republic of Armenia and the Republic of Lithuania the documents which are prepared or verified by the relevant institution or by authorized person within their competence in the prescribed manner and verified with a stamp with an image of emblem in the territory of one of the Contracting Parties are accepted without any verification in the territory of other contracting party. In accordance with Point 2 of the same Article, the documents, which are considered as official in the territory of one Contracting Party, are endowed with evidential force of the official documents in the territory of the other Contracting Party.

On May 24, 1993, the Republic of Armenia joined the Hague Convention of October 5 1961, “Abolishing the Requirement of Legalization for Foreign Public Documents,” which has 103 Member States. Joining to this Convention, the Republic of Armenia committed to abolish reciprocally the requirement of legalization of official documents provided in the territory of other Contracting States and presented in the Republic of Armenia, **including documents verified by notary**. By this Convention the institution of certification is also brought in, which supersedes the procedure of legalization. Bringing in the institution of certification has the aim to ensure the usage of an official document verified by the certificate provided in the territory of one Contracting State in the territory of the other Contracting Party. By the way, the certificate issued in conformity with the requirements of the Convention for the official document provided in the territory of one Contracting Party shall not be declined and disacknowledged in the territory of the other Contracting Party. Declining or disacknowledging shall be considered as non-implementation of the international obligation.

The Constitutional Court emphasizes necessity of unconditional implementation of the fundamental requirement of the prevailing of the legal force of the norms of the ratified international treaties over the norms of the law prescribed by Article 6, Part 4 of the RA Constitution, as well as proper implementation of the commitments assumed by the Republic of Armenia. The Constitutional Court states that in the concerned situation the implementation of those requirements shall exclude the factual differentiated approach based on the necessity for the pensioners to return to the Republic of Armenia for receiving pension, between the pensioners residing outside the Republic of Armenia but in the state which has

signed interstate agreement in the sphere of pension security on one hand, and on the other hand the pensioners residing outside of the Republic of Armenia but in the states member to the Hague Convention of October 5 1961, “Abolishing the Requirement of Legalization for Foreign Public Documents,” as well as to the bilateral and multilateral international agreements regulating the legal relations connected with mutual recognition of validity of foreign official documents.

Simultaneously, the Constitutional Court states that the above-mentioned differentiated approach cannot cause in the principle of discrimination prohibition prescribed by article 14.1 of the RA Constitution as the considered approach emerged **exclusively in the law-enforcement practice because of non-fulfillment of the requirements of Article 6 of the RA Constitution by the relevant competent bodies**, which is confirmed by the above-mentioned note N AGG/SS-1-1/1013-12 dated 17.02.2012 provided by the RA Labor and Social Issues Minister, which confirms that, in particular, the pension payment in the RA **is not based** on the power of attorney ratified by the Member States to Kishinev and Hague above-mentioned Conventions in the Republic of Armenia.

Based on the above-mentioned the Constitutional Court states that the issue raised by the Applicant is conditioned not with the constitutionality of the challenged provisions of the Law but with negligence of the legal requirement of the superior legal force of the norms of ratified international instruments over the legislative norms prescribed by Article 6, Part 4 of the RA Constitution in the law enforcement practice.

Concerning the pensioners who are the RA citizens and who reside in the state which has not signed an interstate agreement on pension security or in a state which is not a member to the Hague Convention of *October 5 1961*, Abolishing the Requirement of Legalization for Foreign Public Documents, or in the states which are not member to international multilateral and bilateral treaties which regulate legal relations connected with the mutual recognition of the validity of the foreign official documents, the Constitutional Court states that restriction of the scope of the documents required by the provisions of Article 35, Parts 6 and 9 by documents verified only by the notary conducting activities in the territory of the Republic of Armenia for the above-mentioned pensioners opposed to the pensioners residing in the territory of the Republic of Armenia causes necessity to return to the Republic of Armenia, however, finds that the above-mentioned circumstance does not cause in any way the violation of the principle of discrimination prohibition prescribed in Article 14.1 of the Constitution, as, first, the duty to submit the mentioned documents is prescribed for all pensioners, secondly, their accordingly confirmation and validation is restricted by the same subject, i.e. the notary conducting activity in the territory of the Republic of Armenia, thirdly, **the factual situation** caused by the legal regulations aimed at implementation of any right, **in this certain case necessity to return to the Republic of Armenia** cannot conclude to the violation of the principle of non-discrimination, if the situation is not connected with the defining different extent of the rights and duties of the persons of the same category. The mentioned factual situation cannot conclude to the unreasonable restriction of the right if the prescribed legal regulation pursues a legitimate goal. The Constitutional Court states that in this case the legitimacy of the aim pursued by the legal regulation is conditioned with the fact that for the pensioner who resides in the state which is not the member to the Hague Convention of October 5, 1961, Abolishing the Requirement of Legalization for Foreign Public Documents or in the state which is which not the member to international multilateral and bilateral treaties which regulate legal relations connected with the mutual recognition of the validity of the foreign official documents the Republic of Armenia assumes an additional burden to check the authenticity of the documents prescribed by Article 35, Parts 6 and 9, Paragraph 1 of the Law provided in those states and this is done in the absence of the relevant international legal grounds. In this case, regarding the above mentioned pensioners, the legitimacy of the aim of the legal regulation prescribed by Law is conditioned

with the prevention of the possible violations in the field of pensions payment, and as a result, with the necessity of guaranteeing the pensioner's rights and effective usage of budget means.

Simultaneously, basing on Article 36 and Article 41, Part 4 of the RA Law on State Pensions the Constitutional Court finds that the issue raised by the Applicant does not concern the permissibility of the restrictions to the right of the social security prescribed by Article 37 of the RA Constitution, as in all cases Article 36 and Article 41, Part 4 of the RA Law on State Pensions provides with the possibility to receive the amounts of unpaid pensions for the previous three years prior to the month of submitting the application to receive the pension (in accordance with the legal regulation which was in action on the date of applying to the Constitutional Court), and in the case of the failure of the department assigning the pension for the entire period. The Constitutional Court also takes into consideration that on the basis of the Application of the RA Human Rights Defender, the Court has started the consideration of the case on conformity of Article 38, Part 1, Points 1 and 2, Article 36, Part 1, Point 2 (in accordance with the amendment made by the RA Law HO – 100 dated 19.03.2012), Article 14, Part 3, Paragraph 2, Article 29, Part 2, Point 6 of the RA Law on State Pensions with the RA Constitution and will touch upon the constitutionality of the mentioned articles in the frame of that case.

Proceeding from the results of the case consideration and being ruled by Article 100, Point 1, Article 101, Part 1, Point 8 and Article 102 of the Constitution of the Republic of Armenia and Articles 63, 64 and 68 of the Law on the Constitutional Court of the Republic of Armenia, the Constitutional Court of the Republic of Armenia HOLDS:

1. Provisions of Article 35, Part 6, Paragraph 1 and Part 9, Paragraph 1, Article 41, Part 2, Point 3 of the Law of the Republic of Armenia on State Pension are in conformity with the Constitution of the Republic of Armenia within the framework of the legal positions expressed in this Decision.
2. Pursuant to Article 102 of the Constitution of the Republic of Armenia, this decision is final and enters into force from the moment of announcement.

Chairman

G.Harutynuyan

October 2, 2012

DCC – 1050