

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

ON THE CASE OF CONFORMITY OF PART 4 OF ARTICLE 8 OF THE LAW ON THE PASSPORT OF THE CITIZEN OF THE REPUBLIC OF ARMENIA, POINT 7 OF PART 3 OF ARTICLE 86 OF THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA, POINT 19 OF THE REGULATIONS OF THE PASSPORT SYSTEM IN THE REPUBLIC OF ARMENIA APPROVED BY THE RA GOVERNMENT DECISION NUMBER 821 DATED DECEMBER 25, 1998 AND SUB-POINT “I” OF POINT 5 OF ANNEX 1 OF THE RA GOVERNMENT DECISION NUMBER 884-N DATED JUNE 22, 2006 WITH THE CONSTITUTION OF THE REPUBLIC OF ARMENIA ON THE BASIS OF THE APPLICATION OF THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA

Rapporteur A. Khachatryan

Based on the review of the Case and being governed by Point 1 of Article 100, Point 8 of Part 1 of Article 101, and Article 102 of the Constitution of the Republic of Armenia (with Amendments through 2005), 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. The provisions “The inquest or preliminary investigation body shall temporarily withhold the passport of the suspect or the accused” and “The passport of the suspect and the accused shall be withheld by the officials conducting proceedings, and shall be returned immediately after termination of criminal prosecution” stipulated by Part 4 of Article 8 of the RA Law on the Passport of the citizen of the Republic of Armenia are in conformity with the RA Constitution in the constitutional legal content, according to which, the inquest or preliminary investigation body may temporarily withhold the passport of the suspect or the accused **exclusively upon availability of the decision about the execution of the preventive measure (undertaking not to leave a place or arrest) to the suspect or the accused.**
2. The provision “The witness shall be obliged ... not to travel to another locality without the permission of the court” stipulated by Point 7 of Part 3 of Article 86 of the Criminal Procedure Code of the Republic of Armenia is in conformity with the RA Constitution in the constitutional legal content, according to which, the power of the court on authorizing the witness to travel to another locality shall be implemented within the purpose envisaged by Part 4 of article 40 of the RA Constitution and in accordance with the principles of proportionality and certainty stipulated by Articles 78 and 79 of the RA Constitution, which predetermine the margin of discretion of the court.

3. The provisions “The inquest or preliminary investigation bodies, or the courts shall temporarily withhold the passports of the suspects or the accused, to whom undertaking not to leave a place was executed as a preventive measure” and “The passports of the suspects and the accused shall be returned to the owners in case the preventive measure is eliminated” stipulated accordingly by Paragraph 1 and Paragraph 2 of Point 19 of the Regulations of the Passport System in the Republic of Armenia approved by the RA Government Decision number 821 dated December 25, 1998 on Approving the Regulations of the Passport System in the Republic of Armenia and Description of the Passport of a Citizen of the Republic of Armenia are in conformity with the RA Constitution.
4. Paragraph 3 (As amended by the RA Government Decision number 823-N dated July 31, 2008) of Point 19 of Point 19 of the Regulations of the Passport System in the Republic of Armenia approved by the RA Government Decision number 821 dated December 25, 1998 on Approving the Regulations of the Passport System in the Republic of Armenia and Description of the Passport of a Citizen of the Republic of Armenia is in conformity with the RA Constitution in the constitutional legal content, according to which, the inquest or preliminary investigation bodies must issue an identity proof document, instead of the passport, to the suspects and the accused – who are not under arrest – to whom undertaking not to leave a place was executed as a preventive measure.
5. Sub-point “i” of Point 5 of Annex 1 of the RA Government Decision number 884-N dated June 22, 2006 on Creation of the Electronic Border Management Information System, Defining the Procedure for its exploitation and the List of its Users is in conformity with the RA Constitution in the constitutional legal content revealed in this Decision, according to which, the duty to place “the data on execution of the preventive measure at the moment of its execution” in the BMIS must be in consonance with the duty to send “the data on elimination of the preventive measure at the moment of elimination of the preventive measure” to the BMIS.
6. Pursuant to Part 2 of Article 102 of the Constitution of the Republic of Armenia (with Amendments through 2005) this Decision is final and enters into force from the moment of the announcement.

April 4, 2017

DCC-1360