

**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 1 OF ARTICLE 310.1 AND ARTICLE 314.3  
OF THE RA CRIMINAL CODE WITH THE CONSTITUTION OF THE REPUBLIC OF  
ARMENIA ON THE BASIS OF THE APPLICATION OF VACHAGAN GHAZARYAN**

Based on the review of the case and governed by Clause 1 of Article 168, Clause 8 of Part 1 of Article 169, and Article 170 of the Constitution, as well as Articles 63, 64 and 69 of the Constitutional Law on the Constitutional Court, the Constitutional Court **HOLDS**:

**1.** Part 1 of Article 310.1 and Article 314.3 of the Criminal Code of the Republic of Armenia are in conformity with the Constitution in the following interpretation:

(1) the constitutional principle of retroactive effect of the law eliminating the punishability of the act or mitigating the punishment shall apply not only to the criminal law, but also to those laws to which reference is made by the blanket norms of the Criminal Code;

(2) the phrase "reasonable suspicion that a crime has been committed" prescribed by Clause 4 of Part 1 of Article 27 of the Constitution implies that the criminal charge presented to a person is legitimate, there are no circumstances excluding criminal prosecution, as well as retroactively eliminating the punishability of the act;

(3) the basic right to effective judicial protection of rights and freedoms also includes the right of the accused to challenge detention chosen as a preventive measure in the pre-trial proceedings of a criminal case, or to challenge the legitimacy of the charges presented to the accused when examining the motion to extend the period of detention, and this right must be guaranteed within the framework of judicial control over the pre-trial proceedings.

**2.** Taking account the circumstance that the provisions contested in this case had been applied against the applicant in an interpretation other than interpreted by the Constitutional Court, in accordance with Part 10 of Article 69 of the Constitutional Law on the Constitutional Court, the

final judicial act rendered against the applicant shall be subject to revision upon the grounds of a newly emerged circumstances as prescribed by the Law.

3. Pursuant to Part 2 of Article 170 of the Constitution this Decision shall be final and shall enter into force upon its promulgation.

**CHAIRMAN**

**H. TOVMASYAN**

April 16, 2019

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