

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

**ON THE CASE CONCERNING THE CONSTITUTIONALITY OF ARTICLE 309.1 § 3
OF THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA
ADOPTED IN 1998 RAISED BY THE APPLICATION OF THE CASSATION COURT
OF THE REPUBLIC OF ARMENIA**

Based on the examination of the case and subject to Article 167 § 1, Article 168(1), Article 169 § 4, Article 170 §§ 1 and 2 of the Constitution, as well as guided by Articles 63, 64 and 71 of the Constitutional Law on the Constitutional Court, the Constitutional Court **HOLDS:**

1. Article 309.1 § 3 of the Criminal Procedure Code of the Republic of Armenia adopted on 1998 is in conformity with the Constitution by the interpretation that, in the case the Constitutional Court declares the norm of the Criminal Code of the Republic of Armenia, according to which the act imputed to the defendant is qualified, as contradicting the Constitution and void, the prosecutor may, before the court retires to the deliberation room, change the charge brought against the defendant (the legal qualification of the act imputed to him) if the defendant's act contains elements of another act prescribed by criminal law, regardless of the examination of evidence during the trial.

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

PRESIDENT

A. DILANYAN

July 22, 2024

DCC-1741