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## THE IMPACT OF THE LEGAL PRACTICE OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF ARMENIA ON THE LAWMAKING PROCESS

### Annotation

Constitutional justice in the Republic of Armenia is implemented by the Constitutional Court, whose exclusive authority is to determine the constitutionality of normative legal acts and the legal provisions enshrined therein. In this regard, the Constitutional Court issues decisions of unique value, which are endowed with the characteristics of binding force and finality.

Despite all this, public authorities, based on certain interests, avoid implementing the decisions of the Constitutional Court. Such conduct is reflected in the failure of the executive and legislative bodies to amend norms that have been declared unconstitutional and to address legislative gaps. Under such conditions, the foundations of the constitutionality of the state-legal system, as well as the principle of separation and balance of powers, are certainly being undermined.

The paper aims at advancing new approaches regarding the law changes based on Constitutional Court decisions, by elucidating the legal nature of Constitutional

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Court decisions, the principle of separation and balance of powers, and the mechanisms for the unconditional execution of judicial acts by public authorities.

**Keywords:** Constitutional Court Decision, erga omnes, Venice Commission, res judicata, separation of powers, lawmaking process, National Assembly.

### **I. Introduction**

Constitutional justice, as a unique judicial form of rights protection, is a comprehensive set of procedural mechanisms that fundamentally differs from conventional justice implemented in the three-tier judicial system. It is aimed at ensuring the supremacy of the Constitution<sup>1</sup> and constitutional stability within the state, as well as protecting fundamental human rights and freedoms.

The distinctive content of constitutional justice presupposes the existence of a supreme judicial instance – the Constitutional Court – and the special constitutional powers reserved exclusively to it.

Constitutional justice is generally characterized by the principles of binding force (erga omnes<sup>2</sup>) and finality (res judicata<sup>3</sup>), which guarantee the unimpeded fulfillment of the court's principal constitutional mission, namely, the examination of the constitutionality of normative legal acts and/or the legal provisions enshrined therein (constitutional oversight). Within this framework, the Constitutional Court renders decisions, the nature of which still raises certain politico-legal disagreements. Under conditions of institutional resistance and contradictory interpretations, issues concerning the practical implementation of Constitutional Court decisions remain a subject of ongoing debate.

Therefore, taking into account the aforementioned, the purpose of this article is to reveal those legal foundations and doctrinal justifications, the systematic analysis of which will enable to clarify the legal nature of Constitutional Court

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<sup>2</sup> See **Victor Ferreres Comella**, *Constitutional Courts and Democratic Values: A European Perspective* (New Haven and London: Yale University Press, 2009), p. 9.

<sup>3</sup> See European Commission for Democracy through Law (Venice Commission), “The Binding Effect of Federal Constitutional Court Decisions Upon Political Institutions”, Report by **Ms Anke Eilers**, Federal Constitutional Court, Karlsruhe, Seminar on “The effects of Constitutional Court decisions” (Tirana, 28-29 April 2003), CDL-JU (2003) 18, p. 7.

decisions and modern mechanisms of their implementation, while presenting international best practices and proposing possible paths for reforms.

## **II. The Legal Nature of Constitutional Court Decisions**

In the context of a substantial change in the role of the Constitutional Court in public life and its constitutional-legal status, the role and significance of the jurisprudence developed by the Constitutional Court have been redefined. From the perspective of strengthening constitutional values, the decisions of the Constitutional Court, endowed with strong theoretical-scientific features, are distinctive forms of consolidating doctrinal and practical knowledge<sup>1</sup>. It is noteworthy that at the contemporary stage of constitutional law development, the decisions of the Constitutional Court are perceived not only as documents determining the constitutionality of law, but also as the primary means of forming a unified constitutional doctrine<sup>2</sup>.

The Constitutional Court, in its Decision No. DCC-1791 (Constitutional Court Decision) of July 29, 2025, held that the implementation of constitutional justice in general, including particularly the determination of compliance of legal acts specified in Article 168 of the Constitution with the Constitution, is the exclusive jurisdiction of the Constitutional Court, therefore, *the corresponding acts adopted as a result of constitutional justice are also of exceptional nature in terms of public importance, since they are directed not only toward the protection of an individual's fundamental rights/freedom in a specific case, but also toward the protection of the interests of the entire public and ensuring the rule of law and constitutional legal order*<sup>3</sup>.

Nevertheless, there are fundamentally contradictory interpretations within theoretical-scientific and legal-political circles regarding the legal nature of the decisions of the Constitutional Court and the legal positions expressed therein.

<sup>1</sup> See **Ղամբարյան Ա.Ս.**, ՀՀ Սահմանադրական դատարանի դերը դատական քաղաքականության ձևավորման ոլորտում, Սահմանադրական իրավունք, էջ 11: (**A. S. Ghambaryan**, "The Role of the Constitutional Court of the Republic of Armenia in the Formation of Judicial Policy," Constitutional Law, p. 11).

<sup>2</sup> See **Manasyan A.**, "Binding Nature of the Legal Positions of the Constitutional Court of the Republic of Armenia: From Theory to Practice," in Materials of the Conference Devoted to the 80th Anniversary of the Faculty of Law of Yerevan State University (Yerevan: YSU Press, 2014), p. 91.

<sup>3</sup> See Սահմանադրական դատարանի 2025 թվականի հուլիսի 29-ի թիվ ՍԴՈ-1791 որոշումը: (Decision No. DCC-1791 of the Constitutional Court of 29 July 2025).

Thus, the European Commission for Democracy through Law (hereinafter also referred to as the **Venice Commission**), in its advisory opinion CDL-AD(2017)011, addressing the binding nature of Constitutional Court decisions and the legal positions expressed therein, proposed that in cases, where a norm is deemed unconstitutional, only the conclusive part of the judgement should be endowed with binding nature, while in the opposite case (when found to be in compliance with the Constitution), both the conclusive part and those legal positions from which the conclusive part of the judgement has been derived should have binding force<sup>1</sup>.

**In connection with the aforementioned, it should be noted that such a narrow and situational interpretation of the term “decision” may, in practice, deprive the Constitutional Court of the opportunity to form a uniform constitutional doctrine, thereby hindering the implementation of the Constitutional Court’s constitutional mission.** Under such circumstances, those presumptive risks that the Venice Commission has most likely taken into account when endowing legal positions with erga omnes characteristics in cases where a norm is deemed compliant with the Constitution are equally applicable in situations where a norm is found to be in conflict with the Constitution.

**Therefore, the concept of the binding nature of Constitutional Court decisions, in the context of their implementation, presupposes not only the proper understanding and efficient enforcement of the operative provisions, but also of the legal positions underpinning the conclusive part of the decision.** The legal nature of Constitutional Court decisions cannot be revealed without drawing conclusions regarding the nature of the legal positions expressed therein.

In this regard, the Constitutional Court, through its Decision No. DCC-943 of February 25, 2011<sup>2</sup>, addressing the issue of clarifying the nature of the legal positions expressed in its decisions, comprehensively revealed the constitutional and legal mission as well as the substance of the Constitutional Court, its

<sup>1</sup> See European Commission for Democracy Through Law. Compilation of Venice Commission Opinions, Reports and Studies on Constitutional Justice (Updated), CDL-PI(2022)050, Strasbourg, 7 December 2022, p. 108.

<sup>2</sup> See Սահմանադրական դատարանի 2011 թվականի փետրվարի 25-ի թիվ ՍԴՈ-943 որոշման 6-րդ կետը, ՀՀՊՏ 2011.03.09/15(818) Հոդ.240 (Point 6 of the Decision No. DCC-943 of the Constitutional Court of 25 February 2011, published in the Official Bulletin of the Republic of Armenia, 09 March 2011, No. 15(818), Article 240).

decisions, and the positions expressed therein within the framework of assessing the constitutionality of norms.

In particular, the Constitutional Court has defined its decisions as official written documents adopted within the scope of its constitutional powers, in cases and in the manner prescribed by the Constitution and the law. These decisions *establish rights, obligations, responsibilities, and limitations subject to mandatory recognition, preservation, protection, implementation or application; in doing so, these decisions lay down normative rules – that is, rules of conduct – which are legally indisputable (not subject to review), unconditional, unreserved, and subject to immediate execution (unless another timeframe is established)*. The Constitutional Court has noted that the legal positions expressed in its decisions are intended *to ensure a more comprehensive and uniform interpretation of the Constitution and constitutional legality in legal practice, guiding the application of law toward interpreting and applying normative acts in accordance with their constitutional and legal purport*.

In this context, it should be noted that Article 170 of the Constitution and Article 61 of the Constitutional Law “On the Constitutional Court<sup>1</sup>” reveal the binding and final nature of Constitutional Court decisions. According to these norms, *decisions adopted by the Constitutional Court on the merits are final and binding for all state and local self-government bodies, their officials, as well as natural and legal persons throughout the entire territory of the Republic of Armenia*.

**Therefore, on the basis of the analysis of the aforementioned norms, it follows that the *erga omnes* and *res judicata* effect of Constitutional Court decisions extends to the decision as a whole, and accordingly encompasses the legal positions articulated therein. This is because the determination of a legal provision’s conformity with the Constitution cannot be regarded as complete without the interpretations of the constitutional norms set forth in the decision, nor can such determination be properly understood in disregard of those interpretations. The latter is derived from the fundamental principle recorded in the Constitutional Court’s Decision No. DCC-1791 of July 29, 2025, namely that, in light of the continuous developing trends in the entrenchment and**

<sup>1</sup> Ընդունվել է 2018 թվականի հունվարի 17-ին: Ուժի մեջ է մտել 2018 թվականի ապրիլի 9-ին: ՀՀՊՏ 2018.01.31/7(1365) Հոդ.74: (Constitutional Law of the Republic of Armenia “On the Constitutional Court,” adopted on January 17, 2018. Entered into force on April 9, 2018, published in the Official Bulletin of the Republic of Armenia, 2018.01.31/7(1365), Article 74).

consolidation of constitutionality, *the decisions of the Constitutional Court must be regarded not merely as legal records of the assessment of the constitutionality of legal provisions, but also as instruments which, through the legal positions enshrined therein, promote the systemic formation of a uniform constitutional doctrine and constitutional thought, as well as the institutional development of constitutionality.*

That is, alongside the binding and final force of the conclusive provisions of Constitutional Court decisions, it should be emphasized that, from the perspective of legal development, as well as formation of a uniform constitutional doctrine, and ensuring the constitutionality of the legal order, those conclusive parts cannot be viewed in isolation from their foundation – the legal positions articulated in the decision.

In addition, the binding force of Constitutional Court decisions, as well as of the legal positions underlying them, unconditionally derives from the fundamental principle of the rule of law. In its Decision No. DCC-943 of February 25, 2011, the Constitutional Court, referring to the analysis of international practice on this matter, stated that “international practice likewise unequivocally attests that **the principal precondition for guaranteeing the rule of law - and, consequently, the supremacy of the Constitution - is the assurance of the enforcement of judicial acts possessing a universally binding, final, and erga omnes nature, acts which are deprived of legal substance if the legal positions expressed therein are not taken into account.**”

*In particular, the study of the existing case law of the European Court of Human Rights under Article 6, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Philis v. Greece, para. 59; Golder v. the United Kingdom, paras. 34–36; Hornsby v. Greece, para. 40; Di Pede v. Italy, paras. 20–24; Zappia v. Italy, paras. 16–20; Immobiliare Saffi v. Italy, para. 66) demonstrates that the Court has emphasized, with regard to the execution of domestic judicial decisions, that: “**the right to a court’ would be illusory if a Contracting State’s domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party,**” and that “**the execution of a judgment given by any court must therefore be regarded as an integral part of the “trial” for the purposes of Article 6**”<sup>1</sup>*

<sup>1</sup> See *Hornsby v. Greece*, judgment of 19 March 1997, Reports 1997-II, p. 510, § 40; *Burdov v. Russia*, no. 59498/00, § 34, ECHR 2002-III.

The erga omnes and res judicata nature of Constitutional Court decisions becomes particularly evident within the framework of the two main forms of constitutional review of norms – concrete and abstract review<sup>1</sup>. Under such circumstances, when the Constitutional Court engages in negative law-making activity<sup>2</sup> by declaring a legal provision unconstitutional and invalid, the decision becomes binding not only inter partes (for the parties) but also for all bodies vested with public authority and private entities. The latter – the requirement of mandatory implementation with respect to all – precisely characterizes the erga omnes and res judicata features of Constitutional Court decisions.

The foregoing also demonstrates that Constitutional Court decisions not only definitively resolve disputes of a public-legal nature but also serve as guarantors of the protection of both objective and subjective rights, thereby becoming an important source of legal development.

Consequently, the erga omnes and res judicata nature of Constitutional Court decisions presupposes not only the acceptance of the operative provisions of the decision, but also the understanding and application of the legal positions that form them – that is, the interpretations of constitutional provisions.

Moreover, the foregoing analysis shows that the binding force and finality of Constitutional Court decisions are not only prerequisites for the formation of a uniform constitutional doctrine but also guarantees for ensuring the steadfast fulfillment of the Constitutional Court's constitutional mission.

Thus, as an important source of constitutional law and the official interpretation of constitutional provisions, occupying a special place within the state's legal system and vested with the characteristics of erga omnes and res judicata, the decisions of the Constitutional Court hold fundamental significance for the norm-creating function they give rise to. In this context, the normative nature and purpose of Constitutional Court decisions require not only their unconditional

<sup>1</sup> In the case of a concrete review, the Constitutional Court determines, within the framework of a specific case, whether a legal provision already applied or potentially applicable to an entity complies with the Constitution. In the case of abstract review, the Constitutional Court clarifies the constitutionality of a norm prior to its entry into force, or outside the context of a specific case, and without the benefit of any interpretation of that norm provided in practice.

<sup>2</sup> According to Hans Kelsen, when the Constitutional Court determines whether a legal provision complies with the Constitution and declares it unconstitutional and invalid, it engages in “**negative law-making activity**,” in a manner analogous to the way a parliament repeals a law (see H. Kelsen, Pure Theory of Law, 1967).

implementation, but also the establishment of a set of effective legal guarantees to ensure such implementation.

### **III. The Implementation of the Constitutional Court's Legal Practice in Legislation in the Context of the Principle of Separation of Powers**

The principle of separation and balance of powers forms the foundation of the classical constitutionalism of modern states. As early as Article 16 of the 1789 Declaration of the Rights of Man and of the Citizen,<sup>1</sup> it was established that a society in which human rights are not guaranteed and the principle of the balance of powers is not defined cannot be said to have a constitution at all.

The ideas of Montesquieu and John Locke have not yet lost their relevance, but have undergone certain development over time. It should be noted that the classical separation of powers into three branches remains the main concept of the principle of separation and balance of powers. However, without underestimating or diminishing the role of the legislative and executive branches, it should be emphasized that the judiciary is in greater need of active protection and is the pivotal actor in upholding the principle of separation and balance of powers.

In the modern world, it is difficult to ensure a complete separation of powers between the executive and legislative branches, as the majority of government members and the parliamentary majority usually belong to the same political force and serve its interests<sup>2</sup>.

Consequently, taking into account what was mentioned above, the judicial power acquires essential significance, as it is, by virtue of its constitutional authority, capable of counteracting acts adopted by the executive and legislative branches. Therefore, the legislative and executive powers are unconditionally bound by the acts issued by the judiciary, since the latter constitutes the only effective means of ensuring the balance of power among the three branches and preventing abuses by the executive and legislative bodies.

In this context, the powers of Constitutional Courts in general, and constitutional review of norms in particular, are justified by the principle of separation and

<sup>1</sup> The Declaration of Rights of Man and Citizen, National Assembly of France, 1789. [https://www.csun.edu/~kaddison/the declaration rights france.pdf](https://www.csun.edu/~kaddison/the%20declaration%20rights%20france.pdf)

<sup>2</sup> See **Luis López Guerra**, The Judiciary and the Separation of Powers, European Commission for Democracy Through Law, CDL-JU (2000) 21, 2000, p. 4.



balance of powers, where constitutional review serves to safeguard fundamental rights and democratic principles by precluding encroachments<sup>1</sup> upon them by the legislative and executive branches. This, in turn, presupposes that every subject of public authority is bound by this constitutional imperative. In other words, the subjects of legislative, executive, and judicial power bear equal responsibility for ensuring the establishment of constitutional balance among themselves within the state.

However, the concept of the balance of powers is not always perceived in a clear and unambiguous manner by the subjects bearing the obligation to maintain it. The concept of the binding nature of Constitutional Court decisions presupposes its unconditional implementation, which, for this purpose, is ensured in accordance with Article 66 of the Constitutional Law “On the Constitutional Court”:

1. Following the publication of a Constitutional Court decision, and no later than within a three-month period, the Government shall examine the decision and, if necessary, initiate the drafting of the appropriate legal acts based on it, and present them to the National Assembly.

2. In cases where a normative legal act has been declared wholly or partially unconstitutional by a Constitutional Court decision, and a later deadline has been established for the act or part thereof to cease to have legal force, the Government shall ensure the implementation of the decision by submitting the corresponding draft law or package of draft laws before the expiration of that deadline.

From the analysis of the aforementioned norms, it clearly follows that the executive body – the Government – bears the obligation to implement constitutional court decisions. That is, if any legal provision is deemed unconstitutional or if a legislative gap is deemed contrary to the constitution, then the Government must undertake all possible means for amending or supplementing that legal provision. A specific deadline is established for carrying out these actions – 3 months, unless the Constitutional Court sets a different deadline in its decision.

<sup>1</sup> See **Ղամբարյան Ա.Ս.**, ՀՀ Սահմանադրական դատարանի դերը դատական քաղաքականության ձևավորման ոլորտում, Սահմանադրական իրավունք, էջ 11. (**A. S. Ghambaryan**, “The Role of the Constitutional Court of the Republic of Armenia in the Formation of Judicial Policy,” Constitutional Law, p. 11).

However, in practice, there are cases when Constitutional Court decisions remain unimplemented. For example, the gap in point 2 of part 3 of Article 69 of the Administrative Procedure Code of the Republic of Armenia was declared unconstitutional by Constitutional Court Decision No. DCC-1497 of December 17, 2019, but to this day, the Government has not fulfilled its legislative obligation and has not taken any steps regarding the amendment or supplementation of that norm. Another example is part 1 of Article 87 of the same Code, certain formulations of which were declared unconstitutional by Constitutional Court Decision No. DCC-1289 of June 23, 2016. The final deadline for the cessation of force of the legal norm declared unconstitutional was set as December 1, 2016, providing an opportunity for the National Assembly and the Government, within their respective competences, to bring the legal regulation of part 1 of Article 87 of the Administrative Procedure Code of the Republic of Armenia into compliance with the requirements of this decision. However, to this day, neither the Government nor the National Assembly has taken any steps to amend or supplement the aforementioned norm.

Such inaction displayed by the legislative and executive powers undoubtedly undermines the state's legal order and violates the principle of separation and balance of powers, since the de facto existing legal relationship lacks clear legislative regulation. Under such circumstances, the courts are also practically deprived of the opportunity to complete the examination of disputes concerning the given legal relationship, since there is no normative legal regulation that has entered into legal force by which the court could be guided to render a decision on the merits.

In order to prevent such issues, the Venice Commission has repeatedly addressed the implementation of Constitutional Court decisions. **Notably, the focus of the Venice Commission's attention is on state parliaments. That is, in its reports, the Venice Commission consistently emphasizes that the implementation of Constitutional Court decisions should obligate parliaments to enact the corresponding amendments<sup>1</sup>.**

<sup>1</sup> See On the Implementation by Parliament of Constitutional Court Decisions, CDL-AD(2024)040 Adopted by the Venice Commission at its 141st Plenary Session (Venice, 6-7 December 2024) on the basis of comments by **Mr Philip Dimitrov** (Member, Bulgaria), **Mr Martin Kuijer** (Member, Netherlands), and **Ms Laura-Iuliana Scântei** (Member, Romania), p. 15.

The Venice Commission, specifically in its opinion No. CDL-AD(2017)011, concerning the draft Constitution of the Republic of Armenia, stated that the **National Assembly cannot refer to the principle of separation and balance of powers and refuse to implement a Constitutional Court decision on that basis.**

The Constitutional Court, in its Decision No. DCC-1791 of July 29, 2025, also reaffirmed the imperative of unconditional implementation of its decisions, noting that the binding nature and finality of Constitutional Court decisions require the establishment and implementation of an effective system of mechanisms for their execution. Moreover, it is impermissible to view the implementation of Constitutional Court decisions exclusively from a formal-legal perspective. Accordingly, relevant decisions of the Constitutional Court must be implemented unconditionally to ensure the supremacy of human rights in the Republic of Armenia as a state governed by the rule of law.

**Placing emphasis on public authorities, the Constitutional Court noted that Constitutional Court decisions, as the ultimate outcome of constitutional justice, must be perceived and regarded by public authorities as a vital cornerstone of the rule of law, one of its fundamental pillars directed also toward guaranteeing the supremacy of fundamental human rights and freedoms.** Whereas the opposite approach implies that there is a need in public life to reinterpret and reassess the very essence of constitutional justice.

Therefore, taking into account the role of the Constitutional Court in public life and the axiological significance of its decisions, as well as the constitutional mission of public authorities, particularly the National Assembly, to ensure the stability of the legal system, it must be unequivocally stated that Constitutional Court decisions are not subject to dispute and must be unconditionally implemented by public authorities.

#### **IV. Conclusion**

**Thus, based on the conducted research, the paper arrives at the following:**

1. Constitutional Court decisions are endowed with the characteristics of binding force (*erga omnes*) and finality (*res judicata*). They are subject to implementation throughout the entire territory of the Republic of Armenia.
2. Public authorities bear a special obligation regarding the implementation of Constitutional Court decisions.

3. The imperative of unconditional implementation of Constitutional Court decisions is grounded in the principles of separation and balance of powers and the Rule of Law, which aim to ensure the supremacy of the Constitution and the constitutionality of the state-legal system.
4. Although the Government has a legislative obligation to undertake amendments and supplements to laws or address legal gaps that have been declared unconstitutional based on decisions of the Constitutional Court, nevertheless, the Government very often fails to fulfill this obligation.
5. There is no legislative framework that would oblige the National Assembly to undertake specific steps regarding the amendment of laws based on Constitutional Court decisions. In this regard, it must be clearly stated that the National Assembly's constitutional mission, namely ensuring the stability of the legal system, as well as international practice, presupposes that the National Assembly should bear primary responsibility for amending or supplementing laws based on Constitutional Court decisions. It is proposed to establish a standing committee within the National Assembly, composed of deputies, to monitor Constitutional Court decisions and engage in the drafting of legislation based on such decisions.

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### Judicial acts and decisions

1. Սահմանադրական դատարանի 2011 թվականի փետրվարի 25-ի թիվ ՍԴՈ-943 որոշումը, ՀՀՊՏ 2011.03.09/15(818) Հոդ.240: (Decision No. DCC-943 of the Constitutional Court of 25 February 2011, published in the Official Bulletin

of the Republic of Armenia, 09 March 2011, No. 15(818), Article 240.)  
[https://www.concourt.am/decision/decisions/633fdd02c0098\\_sdv-943.pdf](https://www.concourt.am/decision/decisions/633fdd02c0098_sdv-943.pdf)

2. Սահմանադրական դատարանի 2025 թվականի հուլիսի 29-ի թիվ ՍԴՈ-1791 որոշումը: (Decision No. DCC-1791 of the Constitutional Court of 29 July 2025.)  
[https://www.concourt.am/decision/decisions/688b7328a87d3\\_SDV-1791.pdf](https://www.concourt.am/decision/decisions/688b7328a87d3_SDV-1791.pdf)

3. Hornsby v. Greece, judgment of 19 March 1997, Reports 1997-II, p. 510, § 40. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-58020%22%5D%7D>

4. Burdov v. Russia, no. 59498/00, § 34, ECHR 2002-III. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-60449%22%5D%7D>

## **ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՍԱՀՄԱՆԱԴՐԱԿԱՆ ԴԱՏԱՐԱՆԻ ԻՐԱՎԱԿԻՐԱՌ ՊՐԱԿՏԻԿԱՅԻ ԱԶԴԵՑՈՒԹՅՈՒՆԸ ԻՐԱՎԱՍՏԵՂԾ ԳՈՐԾՈՒՆԵՈՒԹՅԱՆ ՎՐԱ**

### **Ամփոփագիր**

Հայաստանի Հանրապետությունում սահմանադրական արդարադատությունն իրականացնում է Սահմանադրական դատարանը, որի բացառիկ լիազորությունն է նորմատիվ իրավական ակտերի և դրանցում ամրագրված իրավադրույթների սահմանադրականության հարցի որոշումը: Այդ կապակցությամբ, Սահմանադրական դատարանն ընդունում է յուրահատուկ արժեք ներկայացնող որոշումներ, որոնք օժտված են պարտադիրության և վերջնականության հատկանիշներով:

Չնայած այս ամենին, հանրային իշխանության մարմինները, որոշ շահերից ելնելով, խուսափում են Սահմանադրական դատարանի որոշումների կատարումից, որպիսի վարքագիծը դրսևորվում է գործադիր և օրենսդիր իշխանության մարմինների կողմից Սահմանադրությանը հակասող ճանաչված նորմերը չփոփոխելով և օրենսդրական բացերը չլրացնելով:

Նման պայմաններում անշուշտ խարխլվում են պետաիրավական համակարգի սահմանադրականության հիմքերը, ինչպես նաև իշխանությունների բաժանման և հավասարակշռման սկզբունքը:

Սույն աշխատությունը փորձում է առաջ քաշել նոր մոտեցումներ Սահմանադրական դատարանի որոշումների հիման վրա օրենքներում փոփոխություններ կատարելու վերաբերյալ՝ պարզաբանելով Սահմանադրական դատարանի որոշումների իրավաբանական բնույթը, իշխանությունների բաժանման և հավասարակշռման սկզբունքը և հանրային իշխանության մարմինների կողմից դատական ակտերի անվերապահ կատարման կառուցակարգերը:

**Հիմնաբառեր.** Սահմանադրական դատարանի որոշում, erga omnes, Վենետիկի հանձնաժողով, res judicata, իշխանությունների տարանջատում, իրավաստեղծ գործունեություն, Ազգային ժողով:

## ВЛИЯНИЕ ПРАВОВОЙ ПРАКТИКИ КОНСТИТУЦИОННОГО СУДА РЕСПУБЛИКИ АРМЕНИЯ НА ПРАВОТВОРЧЕСКУЮ ДЕЯТЕЛЬНОСТЬ

### Аннотация

Конституционное правосудие в Республике Армения осуществляется Конституционным Судом, исключительной компетенцией которого является определение конституционности нормативных правовых актов и закреплённых в них правовых положений. В связи с этим Конституционный Суд выносит представляющие особую ценность решения, имеющие обязательную силу и являющиеся окончательными.

Несмотря на это, органы публичной власти, исходя из определённых интересов, избегают исполнения решений Конституционного Суда. Такое поведение проявляется в бездействии исполнительных и законодательных органов в части внесения изменений в нормы, признанные неконституционными, а также в устранении законодательных пробелов.

В таких условиях, несомненно, подрываются основы конституционности государственно-правовой системы, а также принцип разделения и баланса властей.

В настоящей работе сделана попытка выдвинуть новые подходы относительно внесения изменений в законы на основании решений Конституционного Суда, разъясняя правовую природу решений Конституционного Суда, принцип разделения и баланса властей, а также механизмы безоговорочного исполнения судебных актов органами публичной власти.

**Ключевые слова:** решение Конституционного Суда, erga omnes, Венецианская комиссия, res judicata, разделение властей, законотворческая деятельность, Национальное Собрание.

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