

## **The litigation of the four state bodies will partially help people**

People in many cases have been in criminal prosecution for an undefined period of time, since due to the legislative gap and the negative practice, a number of decisions made by the investigator could be canceled by the prosecutor in charge of the case.

Yet in 2013, Ombudsman Karen Andreyan voiced this issue and already in 2015 he appealed the relevant provision of the Criminal Procedure Code in the Constitutional Court, based on the application received from the Investigation Committee. The Prosecutor General also applied to the Constitutional Court some time after the Ombudsman's application to the Constitutional Court. The Prosecutor's application was united with the one of the Ombudsman.

The Constitutional Court made a relevant decision a couple of days ago, providing clarifications on some of the competences of the Investigation Committee and the Office of the Prosecutor, as well as presenting its positions, which although have significant practical meaning, however, they don't clearly and entirely tackle the issue.

From the viewpoint of human rights it is positive, that the Constitutional Court through its stance has obliged the Office of the Prosecutor to provide clear indications in the case of canceling the decision of the investigator. That is to say, if the prosecutor previously would eliminate the decisions of the investigator without clear indications, now the prosecutor is authorized to do so only in case of complying with some conditions.

At the same time, the Constitutional Court hasn't clearly given an answer to the important question as to how many times the decision made by the investigator can be canceled. That is to say, it is still unclear whether (in the event of eliminating the investigator's decision by the Prosecutor) the new decision made by the investigator can be eliminated or not.

Another positive result of this litigation is that the Constitutional Court has defined that in order to exclude the inappropriate delay of decision making, the investigative body and the investigator must provide the necessary materials and documents. This would promote compliance with the terms prescribed by law. At the same time, the cases were not taken into account, such as cases when the immediate provision of materials is not possible due to objective reasons. Now this issue will already be possible to solve only by making a relevant legislative change.

Concluding the decision made by the Court, we can state that due to the intervention by the Ombudsman and the decision of the Constitutional Court, a number of important guarantees were fixed in the law. Yet, the problematic issue of being in a criminal prosecution for an undefined period of time remains unsolved. In this case the issue can have a legislative solution, regarding which the Ombudsman will present specific suggestions to the fractions of the National Assembly.

Office of the Human Rights Defender  
of the Republic of Armenia