

Vom OM Armenien

Die Regulierungen, die die Tätigkeit der Verteidiger behindert haben, sind aufgrund einer Beschwerde des OM als nicht verfassungskonform anerkannt worden

Anfang der weitergeleiteten E-Mail:

Von: "Anna Voskanyan" <[a\\_voskanyan@ombuds.am](mailto:a_voskanyan@ombuds.am)>

Datum: 09. Oktober 2013 09:46:02 GMT+02:00

An: "Anna Voskanyan" <[a\\_voskanyan@ombuds.am](mailto:a_voskanyan@ombuds.am)>

Betreff: RA HRDI: The Regulations Hinder the Activities of the Defense Attorneys Were Considered Unconstitutional Based on the Application of the Ombudsman

## **The Regulations Hinder the Activities of the Defense Attorneys were Considered Unconstitutional Based on the Application of the Ombudsman**

As a result of the Ombudsman activities the defense attorneys will no more be forced to get permission from the investigator in order to participate in the investigatory and other procedure actions conducted upon their motion, as well as the illegal limitation for the them to participate in the procedural activities will also be removed.

Such decision of the Constitutional Court is welcoming, as it will result in the decrease and/or elimination of the illegal hindrances to the implementation of the rights of the defense attorney by the officials of the criminal proceeding, furthermore it will promote effective protection of the rights of individuals to legal assistance in this sphere.

The problem is, that according to the aforementioned provision in the RA Criminal Procedure Code protecting the rights of the defense attorneys it was defined that the defense attorney of the suspect or the accused has the right to participate in all investigatory and other procedure actions of criminal prosecution body conducted upon his/her motion solely by the permission from the investigator, in addition the defense attorney has the right to participate in any investigatory or other procedure action, conducted with the participation of his/her client, if "prior to the beginning" of these actions the defense attorney himself motions it.

Through providing the investigator by the Code absolute discretionary authority of "permission" will result in such a situation when the individuals, based on the arbitrary decision of the investigator, will be unable to receive legal assistance. Furthermore, such regulation was causing the defense attorney to have illegal dependence on criminal prosecution body.

The aim of using the term "beginning" in the Code was also unclear, as a result of which illegal time limitation was defined for the obligations of the defense attorney, threatening the constitutional rights of the suspect or the accused to receive proper legal assistance.

Recently, the Ombudsman has achieved many positive results in the Constitutional Court; nevertheless, this case is distinguished by the fact that the problem was given a definite solution: the illegal regulations raised by the Defender were recognized unconstitutional and invalid.

Staff of the Human Rights Defender  
of the Republic of Armenia  
Address: 56A Pushkin str, Yerevan, 0002, Armenia  
Tel: (37410) 53 88 42;

Email: [ombuds@ombuds.am](mailto:ombuds@ombuds.am)

Website: [www.pashtpan.am](http://www.pashtpan.am)