

## **OMBUDSMAN: CURRENT DRAFT LAW IN REALITY STIPULATES THE IMPUNITY OF MEMBERS OF THE COURT OF CASSATION**

The Ombudsman Karen Andreasyan informs and warns the Deputies of the RA National Assembly that the RA Draft Law “On the Amendments and Changes to the RA Judicial Code” essentially envisages the impunity of members of the Court of Cassation.

The amendments envisaged in the Judicial Code exclude the possibility to expose the Judge and the Chairman of Chamber of the Court of Cassation to disciplinary liability on the basis of obvious and gross violation of norms of substantive and procedure law, in case when the aforementioned grounds for disciplinary liability remain applicable to judges of First Instance Courts and Courts of Appeal.

According to the Ombudsman, as a result of these amendments, without any sufficient grounds, a differentiated approach is displayed towards the judges of the first two Instance Courts and Court of Cassation.

The study of international standards testifies that no allocation is implemented between judges of Supreme and other Judicial Instances in the context of judicial disciplinary liability, the term “judge” is used, which refers to all judges of judicial system in countries regardless of their status.

The amendments envisaged aren't consistent with 2012-2016 strategy program of legal and judicial reforms of the Republic of Armenia as well, which stipulates the exclusion of the possibility to initiate a disciplinary proceeding towards the judge of the Court of Cassation based solely on the violation of substantive law, while in this case the disciplinary liability is also excluded based on violation of procedure law.

The Draft also regulates the distribution of cases in courts, however here also an exclusion is stipulated for the Court of Cassation: only the complaints for which a decision of taking the complaint into proceedings was made by the Chamber of the Court of Cassation are included in the allocation system, in case when according to judicial statistics 90 percent of complaints submitted to the Court of Cassation aren't taken into proceeding.

The Ombudsman submitted his suggestions and comments at the beginning of the Draft development stage. Although some of the proposals submitted were adopted, unfortunately, the main provisions of concern have remained in the Draft.

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