



A request by the Constitutional Court of Armenia for an advisory opinion under Protocol No. 16 has been accepted

The European Court of Human Rights has accepted a [request](#) for an advisory opinion from the Constitutional Court of Armenia and has constituted a Grand Chamber of 17 judges to consider it.

The President of the Grand Chamber has also established a time-frame for submissions from the parties to the domestic proceedings or any other interested party.

The Constitutional Court's request is related to an Article in Armenia's Criminal Code which penalises the overthrowing of the Constitutional order.

Request for an advisory opinion accepted

The request for an advisory opinion was introduced on 2 September 2019 and on 2 October it was accepted by the Panel of the Grand Chamber. A Grand Chamber was formed on 7 October in accordance with Rule 24 § 2 (h) of the Rules of Court.

The advisory opinion requested by the Constitutional Court of Armenia relates to proceedings pending before it in which it is asked to review the constitutionality of Article 300.1 of the Criminal Code.

Article 300.1 of the Armenian Criminal Code is entitled "Overthrow of the Constitutional order".

In its questions, the Constitutional Court has asked for guidance from the European Court on certain aspects of Article 7 (no punishment without law) of the European Convention, such as the concept of "law" within the meaning of that provision, the notions of a law's certainty, accessibility, foreseeability, and stability, and on the principle of the non-retroactivity of a criminal law.

The President of the Grand Chamber has invited the parties to the domestic proceedings before the Armenian Constitutional Court, namely the National Assembly and Mr Kocharyan, a former President of Armenia, to submit written observations by 19 November 2019.

In view of the priority to be given to this request for an advisory opinion, the President of the Grand Chamber also decided to shorten the time-limits, in accordance with Rule 44 of the Rules of Court.

Should they wish to exercise the right enshrined in Article 3 of Protocol No. 16, the High Contracting Party and the Commissioner for Human Rights must inform the Registrar in writing by 12 November 2019. They must submit any written observations they wish to make by 4 December 2019.

Any other Contracting Party or interested person other than the parties to the domestic proceedings wishing to submit written observations must request leave to do so by 12 November 2019. If leave is granted the written observations must be sent by 4 December 2019 at the latest.

Armenia is the second country to seek such an opinion under [Protocol No. 16](#) to the European Convention on Human Rights. France made the first request in October 2018 and the Court delivered its opinion, on rights related to surrogacy, in April 2019.

Protocol No. 16 allows the highest courts and tribunals, as specified by member States which have ratified it, to request advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols.

An advisory opinion may only be requested in the context of a case pending before the domestic court. The acceptance or refusal of a request is left to the Court's discretion. A panel of five judges decides whether to accept the request, giving reasons for any refusal.

Advisory opinions, which are given by the Grand Chamber, give reasons and are not binding. Opinions are published and communicated to the requesting court or tribunal and to the relevant High Contracting Party. Judges are entitled to deliver a separate opinion. The panel and the Grand Chamber include *ex officio* the judge elected in respect of the High Contracting Party to which the requesting court or tribunal pertains. The judge elected in respect of Armenia has withdrawn from the proceedings and consequently an *ad hoc* judge has been appointed.

The aim of Protocol No. 16 is to enhance interaction between the Court and national authorities and thereby reinforce the implementation of Convention rights and freedoms by requesting courts in their adjudication of pending cases.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.