

“Honorable National Assembly President,

Distinguished Vice-Presidents,

Dear National Assembly Members,

Dear People, Proud Citizens of the Republic of Armenia,

The applicable Constitution of the Republic of Armenia provides for a model of the Constitutional Court that is widely regarded by international experts as balanced. The essence of this model is as follows: Candidates for three Constitutional Court judges are nominated by the President of the Republic, the Government, the General Assembly of Judges, the election is made by the National Assembly, and the Constitutional Court becomes the upper instance for balancing between the three branches of power. At the same time, the new constitution has two important nuances.

Unlike the former Constitution, the RA President in office cannot be a member of any party, judges cannot be partisans either, and given the fact that the Speaker of the National Assembly has been deprived of the right or is not entitled to nominate a judge for the Constitutional Court, we can state that the risks of politicization of the Constitutional Court are mitigated as much as possible in the applicable Constitution.

The risks for the Constitutional Court Chairman to exercise pressure on the Constitutional Court are also mitigated, because unlike the previous one, the Constitutional Court Chairman is elected for a six-year term, not for life. In addition, a CC judge may be elected president of the court only once. In addition, unlike the previous Constitution, the President of the Constitutional Court is elected by the judges of the Constitutional Court and not by the National Assembly. In addition, the abnormal practice where the same person could be a member of the Constitutional Court for 40 years has also been eliminated. This is an abnormal practice, because when any president or prime minister remains in office for 30 or 35 years, we consider it a monopoly, dictatorship, but we deem it quite natural when the same person is a member or the chairman of the Constitutional Court for 35 years.

Under the new Constitution, the term of office of a judge of the Constitutional Court is 12 years. At the same time, the same person may be elected as a judge of the Constitutional Court only once. This is how the Constitutional Court is described in our Constitution at the moment. And this model, also with the encouragement and support of international experts, was chosen and introduced as a result of the recording and analysis of constitutional problems recorded in the history of the Third Republic, because de facto and de jure the Constitutional Court has become an advocate of electoral fraud and illegal power in the Third Republic of Armenia.

In the 1996, 1998, 2003, 2008, 2013 presidential elections, the Constitutional Court acted as an instrument that prevented the people from exercising their right to form a government in the country. The Constitutional Court made it clear that the citizens could not form a government in the country because it contradicted the conventional restraint of the sanction presupposition of a particular part of the case law. Then the members and the Chairman of the Constitutional Court wrote books on the need to conventionally impose sanctions on a particular part of the precedent logic of case law; they kept reading lectures, defending doctoral theses. But they could not answer a simple question of the people. ballot stuffing, dead souls coming to the polls, bribery, beatings, threats to get fired, total control of the TV.

Therefore, in order to leave the burden of these cruel and unanswered questions in the past, to turn a new chapter in the constitutional law and history of our Constitutional Court, the new Constitution chose the balanced and logical model that I spoke about at the beginning and about which many words of encouragement and gratitude structures and experts. Let us call this model the Constitutional Court of Our Dream.

But now I have to ask a question that may seem weary in the light of what I have said from this podium because what I said is envisaged in the currently applicable Constitution. So, do we have that constitutional court of our dream today, I mean a balanced constitutional court? The answer is “No.”

Okay, we have been in a transition stage from the semi-presidential system to the parliamentary system during this period, maybe we just have not managed to have the Constitutional Court of Our Dream. When will we have one that will not be under the banner of a political grouping? Will we have such a constitutional court after all?

Yes, we will, but, attention, in 2035 at the earliest, if things keep going like this, if nothing changes in our country, just because as they wrote the transitional provisions of the currently applicable Constitution, the RPA officials formulated it the way to let the notorious constitutional court continue in office for as long as possible.

In fact, the former Republican government officials said the following: True, we have found the model of the Constitutional Court of Our Dream, where the Constitutional Court judge shall remain in office for 12 years, but we do not diminish the powers of the members of the old Constitutional Court, let them be members of the Constitutional Court as required by the Constitutions of 1995 or 2005.

As a result, we have two Constitutional Court members appointed by Levon Ter-Petrosyan, whose term of office expires in 2026 and 2029 respectively, two CC members appointed by Serzh Sargsyan, whose term of office expires in 2021 and 2037, one member nominated by Hovik Abrahamyan and elected by the National Assembly, whose term expires in 2027, another CC member nominated by Galust Sahakyan and elected by the National Assembly whose term of office expires in 2031 and one CC member nominated by Ara Babloyan and elected by the National Assembly whose term expires in 2035. And although the incumbent Constitution stipulates a 12-year term of office for CC members, the overwhelming majority of members of the old constitutional court will serve much longer, sometimes three times longer than stipulated in the applicable Constitution.

A separate case is that of the Chairman of the Constitutional Court. Although the current Constitution stipulates that the Chairman of the Constitutional Court should be in office for 6 years, the incumbent CC Chairman will serve for 17 years until 2035. The case of incumbent CC Chairman Hrayr Tovmasyan is a separate story that needs a separate investigation. Being one of the authors of the text of the current constitution, or rather Serzh Sargsyan's trusted man in the editorial group and the de facto leader of the process; he did his best to adapt the text of the Constitution to his own plans. In essence, a deal was made between Serzh Sargsyan and Hrayr Tovmasyan with the following logic. Should Hrayr Tovmasyan conceive a text of the constitution that would give Serzh Sargsyan the opportunity to serve for life, then that very text should give Hrayr Tovmasyan the opportunity to serve as CC Chairman for life in spite of the Constitution itself.

By the way, Hrayr Tovmasyan did not reduce the term of office of the members of the old Constitutional Court, that is, he gave them the opportunity to serve more than the term prescribed by the new constitution for his own interests, because he had to serve in the old Constitutional Court until the age of 65, or for some members until the age of 70, because he originally intended that a CC member should be elected in the same way as he was given the opportunity.

He was elected to the Constitutional Court on March 2, 2018 though he knew that after some 37 days the procedure for being elected to the CC would be completely changed. NA Speaker Ara Babloyan nominated him for CC candidate, although he knew that only 37 days later the NA Speaker would be deprived of the right to nominate a member of the Constitutional Court, he was elected to the Constitutional Court for 17 years, though he knew that 37 days after his election the term of office of judges was to be 12 years.

To this end, Hrayr Tovmasyan ensured that, despite the existence of a completely new description of the Constitutional Court, in the current Constitution, the old members of the Constitutional Court would continue to serve because if their term of office were reduced, Hrayr Tovmasyan could not be elected to the CC for 17 years.

The same is true for the CC Chairman. Hrayr Tovmasyan was elected Chairman of the Constitutional Court on March 21, 2018 in the National Assembly, although he knew that only 19 days later the National Assembly would be deprived of its power to elect the Chairman of the Constitutional Court. Hrayr Tovmasyan was nominated for CC chairmanship though he knew that only 19 days after NA Speaker would be deprived of his power to nominate a CC Chairman, where it is written that the CC Chairman is elected by the Constitutional Court for a term of six years, the same person may not be elected President of the Constitutional Court more than once.

And now, to have such a constitutional court as is stipulated in the Constitution, the Armenian people have to wait until 2035, because Hrayr Tovmasyan, with the help of his party, the Republican Party, has secured the seat of CC Chairman until 2035, contrary to the text of the Constitution. I do not want to break anyone's presumption of innocence, but the Republicans seem to have breached not only logic and morality on this path, but also the Criminal Code. The problem is that the term of office of former President of the Constitutional Court Gagik Harutyunyan would expire on March 25, 2018. If he had continued in office until the end of his term, then Hrayr Tovmasyan would not have been elected to CC chairmanship for 17 years by the National Assembly.

And to make this possible, they persuaded Gagik Harutyunyan, who had already been granted the status of Supreme Judicial Council Chairman, to tender his resignation in early March, 20 days before his term expired, so that Hrayr Tovmasyan could be elected to the Constitutional Court for life at March 20 National Assembly session, which was the last regular session of the National Assembly before the new Constitution came into force.

Gagik Harutyunyan submits his resignation on March 5, 2018, but the staff of the National Assembly understands that if Gagik Harutyunyan resigns on March 5, there would be procedural obstacles that could make it impossible for Hrayr Tovmasyan to be elected CC Chairman for 17 years on March 20, 2018 at the regular session of the National Assembly. Therefore, according to published data, they resort to fraud and register Gagik Harutyunyan's resignation on March 2, allowing official falsification.

A criminal case has been instituted in this Special Investigation Service and my political assessment is unanimous. With this fraud and this whole story, the embezzlement of power has been allowed.

Ladies and Gentlemen, I would like to state that due to a number of constitutional manipulations, the incumbent Constitutional Court and its Chairman have appropriated the power of the people of the Republic of Armenia. I already talked about its first episode. We are talking about Article 213 of the incumbent Constitution, which allowed the old Constitutional Court to continue in office under the new Constitution and in spite of the Constitutional Court described in the new Constitution.

But there is another, no less important episode. Hrayr Tovmasyan has been given more authority over the Constitutional Court than the people of the Republic of Armenia, who is the highest holder of power in our country, at least in the constitutional text. The problem is that under the current regulation, the constitution cannot be amended without the permission of the Constitutional Court. That is, the people of the Republic of Armenia may wish to change anything in the constitution, but the Constitutional Court will not allow it, considering it to be unconstitutional. At the same time, no one can dispute this position of the Constitutional Court. That is, the people of Armenia may wish to deprive Hrayr Tovmasyan of his unlawful status of CC Chairman, but the Constitutional Court will not allow it, considering it unconstitutional. That

is to say, due to the efforts of Hrayr Tovmasyan and the RPA, an entity has emerged in our country, which is above the people and that subject is the Constitutional Court. This is a cruel example of the usurpation of power. Absurd is the conclusion that the Constitutional Court can make irrevocable decisions even on its own status. This is a really scandalous absurdity, how can the Constitutional Court make such decisions about itself?

There are lawyers who argue how come the National Assembly can make a decision on itself, the government can make a decision on itself, and the President, too, can do so. It seems like a powerful argument, but the decisions and laws adopted by the National Assembly can be appealed to the Constitutional Court by several entities, government decisions can be appealed to the Constitutional Court, the Administrative Court, the President's decrees and orders can be appealed to the Constitutional Court, the Administrative Court and the only body whose decisions, including its status, cannot be appealed is the Constitutional Court.

I am not saying that the decisions of the Constitutional Court should be appealed. Let there be atonement. I say that when it comes to the direct powers of other bodies, moreover the authority of the people, the power of the people, the powers of the Constitutional Court must be highly regulated, predictable and limited by the sovereign right of the people. By the way, there is not even a single country in the world where the Constitutional Court is exercising its constitutional authority without a limit. There is no other such country except Armenia. And the situation that we also have in this regard in the Constitutional Court is a direct threat to democracy, because the most important component of democracy is the mechanism of checks and balances.

In our country, as I mentioned above, the institute of the President, the institute of the Government, the Prime Minister, and the National Assembly, even though the Constitutional Court has no counterbalance and no restraint at all, can and does actually restrict the highest holder of power - the people's authority - including the status of the Constitutional Court. This is a direct and terrible threat to democracy, and such a constitutional court was formed to prevent the development of democracy in Armenia, because the writers of this constitution nevertheless planned that there would be neither democracy nor people's power in Armenia until 2035. Or otherwise, the dog's head is in the Constitutional Court.

The only hope of the former corrupt regime is pinned on Hrayr Tovmasyan and the Constitutional Court. But we will not allow it and we will take another action and today we have come together to launch that action. Today, we must make a decision to resolve this issue with the people, and the National Assembly must decide to hold a national referendum on amending Article 213 of the Constitution.

The amendment of this article should terminate the powers of all members of the Constitutional Court elected in the old manner. This will happen if the citizens of the Republic of Armenia go to the polling station on the day of the referendum and say yes to the proposed changes and to the people's authority. In that case, two newly appointed judges will continue to serve in the Constitutional Court: Arman Dilanyan nominated by the General Assembly of judges and elected by the National Assembly and Vahe Grigoryan nominated by the President and elected by the National Assembly.

After the referendum, the Government of Armenia, the General Assembly of Judges, the President of the Republic will nominate candidates for the Constitutional Court judge, the National Assembly will elect the judges and within a few months we will have a Constitutional Court elected and acting in accordance with the Constitution of the Republic of Armenia, which will elect the President of the Constitutional Court.

Of course, we will set forth a condition before the new Constitutional Court that they should support the adoption of laws and constitutional amendments that balance the oversight powers of the Constitutional Court. And by the end of this process, we will have a constitutional court that will not be under the banner of any political force or grouping or official, but will be before the people, the reporting people, the supreme constitutional court, but no higher than the

people. The Republic of Armenia, all of us need a constitutional court that will guarantee democracy and the rule of law the Republic of Armenia, and not be a threat to democracy.  
Honorable Presidency of the National Assembly,

Dear  
Proud Citizens of the Republic of Armenia,

MPs,

And in the National Assembly and outside its borders there will be many views, discussions, speculations on the decision to hold a referendum. All necessary legal justifications are available in the draft package. I do not want to go into small or big details and I can record the most important from this high podium.

There is no problem in the Republic of Armenia that the people of the Republic of Armenia cannot solve. There is no question in the Republic of Armenia beyond the people's authority. The citizens of the Republic of Armenia are sovereign and competent; they can solve any problem.

By the way, after the non-violent, velvet, popular revolution that took place in spring 2018, there is much talk that the Civil Contract party or the My Step Alliance came to power in a revolutionary way. This formulation is a result of misunderstanding, because the proud citizens of the Republic of Armenia were the ones to come to power in the Republic of Armenia. We are just people's representatives; we represent the people as envisaged by Article 2 of the Constitution of the Republic of Armenia.

Yes, we represent the people and have the authority delegated to us by the people, and the Constitutional Court today does not represent the people, it represents the corrupt power of Serzh Sargsyan and it must go away.

And I want to say that all those people who may try to set legal or other obstacles to the free expression of our people's will shall be adequately rebuffed as anti-democratic and anti-state forces. And those who accept the supreme authority of the people will become devotees of shaping the future of Armenia.

Dear compatriots, I would like to address the members of the Constitutional Court with a few words.

Dear Members of the Constitutional Court.

I understand that what I said in this talk is not pleasing for many of you; you may deem some of the episodes offensive. But I mean, I do not tend to offend anyone, I just have to call things by their own name. To say more, if anyone in any part of my speech saw some kind of offence, I apologize. But the realities do not change.

Yes, there is a crisis around the Constitutional Court that contains the threat of becoming a broader crisis, but I want to say that you can solve that crisis yourself, by doing great service to the state and the people, by providing a valuable service.

You, the ones elected under the old procedure, can resign as a member of the Constitutional Court. You can do it today, tomorrow, or you can do it before the President signs the decision on the referendum.

By the way, I would like to say that we have been discussing this issue with the President of the Republic and made sure that he approves the proposed option to resolve the situation through a referendum, regarding which I think he will make a relevant statement. So, dear members of the Constitutional Court, you can resign until the President of the Republic signs this decision and you will be of great service to the Republic of Armenia and its people.

I would also like to say that I am ready to meet with you all, individually, or all of you, to discuss its details. I can ask you to take this step in person, in your own eyes, and I can offer your support in resolving this situation on behalf of the people.

If you accept the offer, we will go ahead. If this is not acceptable to you, then the question, I am sure, will be resolved by the people of Armenia, the proud citizen of the Republic of Armenia, because the Constitution is for the people and not the people for the Constitution.

I would like to emphasize that we are ready to invite the leading international observer organizations - the Council of Europe, the OSCE, the European Union, the CIS, etc. - to observe the referendum, and there is no doubt that guarantees for the people's free will be created just as it was the case with the 2018 free, fair, transparent democratic elections in Armenia, the results of which were not disputed in the Constitutional Court or questioned by any party, social or political group. This is the evidence of one thing: Democracy in Armenia has no alternative. Democracy in Armenia is irreversible.

Therefore,

Long live Freedom,

Long live the Republic of Armenia,

Long live we and our children who live and will live in a free and happy Armenia!"