



ԻՐԱԿՈՒՆՔՆԵՐԻ ՊԱՇՏՊԱՆՈՒԹՅՈՒՆ ԱՌԱՅ ՍԱՅՄԱՆՆԵՐԻ  
ՅԱՍԱՐԱԿԱԿԱՆ ԿԱԶՄԱԿԵՐՊՈՒԹՅՈՒՆ

**Information Note on the Necessity for the Protection of Presumption of Innocence after the  
“Velvet Revolution” in 2018**

The information note has been elaborated by the  
“Protection of Rights without Borders” NGO in 2018



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*... recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...*

*International Covenant on Civil and Political Rights*

According to the RA Constitution, the respect and protection of the fundamental rights and freedoms of the citizen are the obligations of the public authorities.

*The presumption of innocence of the person accused of a crime is the foundation for the insurance of his right to fair trial.*

In accordance with Article 66 of the RA Constitution, anyone charged with a crime shall be presumed innocent until proven guilty as prescribed by law, upon criminal judgment of the court entered into legal force.

It is prescribed by Paragraph 2 of Article 6 of the European Convention on Human Rights and Fundamental Freedoms that, everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

The European Court of Human Rights confirmed in its decisions, that the principal of the presumption of innocence prohibits the public authority representatives, high-ranking officials to issue such public statements which can

- encourage the public to believe, that the person is guilty,
- guide the courts in the facts evaluation process [1].

Moreover, the ECHR has recorded, that statements made by the public figure about the accused person in the alleged crime contains an opinion that the person is guilty before that the fact is confirmed by the outcomes of the trial examination and is considered a violation of the presumption of innocence.

It should be clearly differentiated and evaluative judgments in public statements should be refrained, through which the alleged crime by a person is presented as a solid evidence.

The phenomenon can be talked about or a declarative statement in that regard can be made, through which the alleged crime is described, without evaluating and condemning the conduct of that person. Such statement of public declarations, which are made by the representatives of public authorities or by



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the high-ranking officials and do not correspond the above mentioned conditions, can be considered as violations of the presumption of innocence and the demand formed for its legitimacy. (...) § *the detention of Manvel Grigoryan, Member of Parliament, is not conditioned by keeping large amount of illegal weapons. The detention of Manvel Grigoryan is conditioned by the suspicions, that he has a participation and was concretely engaged in the theft and stealing of the aid sent for the April war. I repeat, that the detention of Manvel Grigoryan is not only connected with the keeping of illegal weapons, but also the suspicions, that he stole the food sent by the schoolchildren for the soldiers in order to feed his animals (bears, tigers etc.). And there are main reasonable suspicions, that he stole the aids for the people, army of Artsakh and these suspicions are grounded by the investigations conducted in his home, private house and the areas belonging to him (...).*

*(...)I repeat, that I don't want to violate the presumption of innocence of anyone, the innocence or the guilt of anyone is decided by the court, but I want to clearly explain, that the detention is conditioned only by the fact of keeping illegal weapons. Besides this, there are suspicions, that technical means sent for the army, including cars, has also be stolen and besides, when our army has a problem with the supply for the army, why should such large amount of weapons, illegal weapons be under the control of an individual? (...):*

*An extract from the Facebook live video on “No compromise with the corruption” by the  
RA Prime Minister Nikol Pashinyan  
17 June 2018*

From the perspective of human rights protection principal, regardless the weight of the crime, public attention and the identity of the person accused of the crime, that principal should strictly be respected and maintained. The mentioned principal is the biggest and the only guarantee for legitimacy and for the development of the mechanisms for legal solutions of the problems in the country.

Taking into consideration the above mentioned, highlighting the public accountability, as well as the human rights and the demand for legitimacy, we expect from the



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## *Representatives of public authorities and high-ranking officials*

- refrain from the evaluative statements made on the conduct of the person accused in the alleged crime in pretrial stage, which can be perceived by the public as an already confirmed circumstances and predetermine the decision to be adopted by the court,
- not to publish such facts or circumstances regarding the alleged crime, which have not yet been published by the pre-investigations body.

## *Law enforcement bodies (National Security Service)*

- the publicity and the accountability of the law enforcement bodies' activity are strictly important to ensure the public trust. Nevertheless, the accountability should be balanced by the principal of the respect towards the human rights.

## *Courts*

- During the preliminary investigation of the case, while making a decision on imposing a preventive measure, ensure the equality of the parties, the proper examination, evaluation of the materials presented by the body conducting the proceeding, as well as the justification and personalization of the made decision.
- In case of submitting the case with the accusative conclusion to the court, to fully ensure the right to fair trial of the accused, maintaining his/her presumption of innocence and not giving a tribute to the public.

[1] *Alenet de Ribemont v. France*, judgment of 10 February 1995, Series A no. 308, § 41: *Daktaras v. Lithuania*, no. [42095/98](#), §§ 41 to 43, ECHR 2000- X; and *Butkevičius v. Lithuania*, no. [48297/99](#), § 49, ECHR 2002- II: