

PROTECTION OF COMMUNITY INTERESTS BY THE PROSECUTOR'S OFFICE: CONSTITUTIONAL AND LEGAL CHALLENGES

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Abstract. This article provides an in-depth analysis of the constitutional framework governing the powers of the Prosecutor's Office in the context of the protection of state and community interests. The primary aim of the study is to determine whether the legislative amendments conferring upon the Prosecutor's Office the authority to initiate claims for the protection of community interests are compatible with the requirements and underlying logic of the Constitution of the Republic of Armenia.

The research employs linguistic, systemic, and formal-logical methods of legal interpretation, as well as the analytical approach of identifying the intent of the legislator. The study examines the evolution of constitutional regulation (1995, 2005, 2015), relevant legislative amendments, their explanatory notes, and the emerging judicial practice.

The findings demonstrate that the concept of "state interest" in the Constitution functions as an autonomous legal category, the content of which does not encompass "community interest." The amendments introduced by the Amending Law are largely mechanical in nature and were not supported by a comprehensive constitutional and systemic analysis, thereby creating normative uncertainty and a risk of misinterpretation of the constitutional text.

The article further argues that the issue of protecting community interests could have been addressed through alternative legal mechanisms without conferring additional powers upon the Prosecutor's Office beyond those provided for by the Constitution. It is concluded that the matter requires constitutional assessment and is likely to become the subject of review by the Constitutional Court.

Keywords - *Prosecutor's Office; State Interest; Community Interest; Public Interest; Local Self-Government; Powers of the Prosecutor's Office; Functions of the Prosecutor's Office; Constitutionality.*

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I. Introduction

Article 103(4) of the 1995 Constitution of the Republic of Armenia¹ provided that the Prosecutor's Office initiates claims in court for the protection of state interests. This constitutional provision subsequently underwent certain amendments. In particular, as a result of the 2005 constitutional reforms, it was stipulated that the Prosecutor's Office initiates claims for the protection of state interests in court in the cases and in accordance with the procedure prescribed by law.

Following the subsequent constitutional amendments of 2015, Article 176(3) of the Constitution established that the Prosecutor's Office may initiate claims in court for the protection of state interests only in exceptional cases and in accordance with the procedure prescribed by law².

Thus, it may be observed that the constitutional provision empowering the Prosecutor's Office to initiate claims for the protection of state interests has undergone a consistent transformation over time, aimed at narrowing the scope of this power and providing it with greater precision. Whereas the 1995 version of the Constitution did not specify the cases and procedure for the exercise of this power, the 2005 version introduced the requirement that it be exercised "in cases and in accordance with the procedure prescribed by law." The 2015 version of the Constitution further tightened this approach by providing that the Prosecutor's Office may exercise this power only in "exceptional cases and in accordance with the procedure prescribed by law," thereby significantly restricting the scope of its application. This approach is also consistent with international standards, which emphasise that, although prosecutors may participate in civil and administrative matters for historical, efficiency, or economic reasons, such involvement must remain strictly exceptional in nature³. At the same time, international bodies, including the Venice Commission, have consistently underlined that the primary focus of the prosecution service should lie within the field of criminal law⁴.

¹ The Constitution of the Republic of Armenia, adopted on 5 July 1995, entered into force on 13 July 1995, available at: <https://www.arlis.am/hy/acts/1/latest> (accessed: 04.05.2026).

² The Constitution of the Republic of Armenia, adopted on 5 July 1995 (as amended by the Constitutional Amendments adopted on 6 December 2015), available at: <https://www.arlis.am/hy/acts/143723/latest> (accessed: 04.05.2026).

³ Consultative Council of European Prosecutors (CCPE-Bu), Report on the Role of the Public Prosecution Service outside the Criminal Field, CCPE-Bu (2008)4rev, Strasbourg, 5 May 2008, p. 19, available at: <https://rm.coe.int/bureau-of-the-consultative-council-of-european-prosecutors-ccpe-bu-rol/168071f586> (accessed: 04.05.2026).

⁴ European Commission for Democracy through Law (Venice Commission), *Report on European Standards as regards the Independence of the Judicial System: Part II – The Prosecution Service*,

The emphasis on the exceptional nature of the circumstances under which the Prosecutor’s Office may initiate claims for the protection of state interests is conditioned by the fact that the primary authority in such matters rests with the state body or local self-government body within whose sphere of competence the pecuniary damage to the state has occurred⁵. In other words, the involvement of the Prosecutor’s Office is of a secondary, subsidiary nature and is conditioned by the failure or improper exercise of powers by the competent authority concerned.

Prior to the adoption of the Law No. HO-104-N of 1 March 2023 “On Making Amendments and Additions to the Law on the Prosecutor’s Office” (hereinafter referred to as the “Amending Law”)⁶, the regulatory framework of the Law of the Republic of Armenia “On the Prosecutor’s Office” (hereinafter referred to as the “Law”)⁷ was, in general, consistent with the prevailing constitutional approach and reflected the exceptional nature of the powers of the Prosecutor’s Office. In particular, Article 4(2) of the Law provided that, in accordance with Article 176(3) of the Constitution, the Prosecutor’s Office initiates claims in court for the protection of state interests only in exceptional cases and in accordance with the procedure prescribed by law.

At the same time, the Law also provided for additional procedural safeguards. Thus, pursuant to Article 27(6) of the Law, in civil or administrative cases concerning state interests in which the Prosecutor’s Office had not participated, a judicial act that had entered into legal force, or had not yet entered into legal force, could be appealed only if the state body or local self-government body involved in the case, in response to an inquiry by the Prosecutor’s Office, had indicated that it did not intend to appeal the relevant judicial act. Moreover, the said body was obliged to respond to the inquiry of the Prosecutor’s Office within five days from the receipt thereof.

Articles 29(1) and (2) of the Law also provided a detailed regulation of the content and the conditions for the exercise of the Prosecutor’s Office’s power to

CDL-AD(2010)040, Strasbourg, 2010, para. 77, available at: [https://www.venice.coe.int/webforms/-documents/default.aspx?pdfFile=CDL-AD\(2010\)040-e](https://www.venice.coe.int/webforms/-documents/default.aspx?pdfFile=CDL-AD(2010)040-e) (accessed: 04.05.2026).

⁵ V. Poghosyan and N. Sargsyan, *The Constitution of the Republic of Armenia as Revised in 2015: Brief Commentaries*, Yerevan: Tigran Mets Publishing House, 2016, p. 141 (Պողոսյան Վ., Սարգսյան Ն., Հայաստանի Հանրապետության 2015թ. խմբագրությամբ Սահմանադրությունը: Համառոտ պարզաբանումներ: Եր.: Տիգրան Մեծ, 2016, էջ 141):

⁶ The Law of the Republic of Armenia “On Making Amendments and Additions to the Law ‘On the Prosecutor’s Office’”, adopted on 01 March 2023, entered into force on 06 April 2023, available at: <https://www.arlis.am/hy/acts/175782> (accessed: 04.05.2026).

⁷ The Law of the Republic of Armenia “On the Prosecutor’s Office”, adopted on 17 November 2017, entered into force on 9 April 2018, RA Official Gazette 2017.12.13/74(1349), Art.1213, available at: <https://www.arlis.am/hy/acts/223075/latest> (accessed: 04.05.2026).

initiate claims for the protection of state interests. In particular, under these provisions, the initiation of such claims by the prosecutor encompassed both the protection of the State's pecuniary and non-pecuniary interests within the framework of civil and administrative proceedings, as well as the initiation of claims for compensation for pecuniary damage caused to the State by a criminal offence within the framework of criminal proceedings. It also included the submission of relevant claims on the basis of the Law of the Republic of Armenia "On Confiscation of Property of Illicit Origin"⁸.

At the same time, the legislator clearly defined the exceptional cases in which alone the prosecutor was entitled to bring a claim for the protection of state interests. These cases were as follows:

(a) where the competent state body or local self-government body, being aware of a violation of state interests and having received a proposal from the prosecutor to file a claim, failed to do so within a reasonable period of time;

(b) where the violation of state interests concerned matters for which the authority to bring a claim had not been vested by law in any state body or local self-government body;

(c) where, as a result of an examination conducted under the Law of the Republic of Armenia

"On Confiscation of Property of Illicit Origin", sufficient grounds existed for the initiation of a relevant claim.

Thus, it may be concluded that, prior to the entry into force of the Amending Law, the Law clearly limited this function of the Prosecutor's Office exclusively to the protection of state interests, including cases involving financial resources allocated by the State to communities in the context of the exercise of delegated powers.

By virtue of the Amending Law, in essence, in all provisions of the Law where the term "state interests" was used, the word "community" was added after the word "state", with the aim of conferring upon the Prosecutor's Office the authority to initiate claims not only for the protection of state interests but also for the protection of community interests. At the same time, it should be emphasised that the conferral of the power to initiate claims for the protection of community interests upon the Prosecutor's Office was carried out in a largely mechanical manner, without a corresponding systemic and constitutional analysis.

⁸ The Law of the Republic of Armenia " On Confiscation of Property of Illicit Origin ", adopted on 16 April 2020, entered into force on 23 May 2020, RA Official Gazette 2020.05.13/50(1605) Art.580, available at: <https://www.arlis.am/hy/acts/218981/latest> (accessed: 04.05.2026).

As a result, Article 4(2) of the Law was formulated as follows: in accordance with Article 176(3) of the Constitution, the Prosecutor's Office shall initiate claims in court for the protection of state (community) interests in exceptional cases and in accordance with the procedure prescribed by law.

Under such a formulation, particularly for a reader unfamiliar with the constitutional text, there is a risk of creating the impression that the wording "state (community) interests" is used in Article 176(3) of the Constitution, whereas in reality the Constitution contains no such formulation. Consequently, this legislative technique may lead to a distorted understanding of the content of the constitutional norm.

It is important to emphasise that the present article does not seek to assess the expediency or justification of conferring upon the Prosecutor's Office the power to initiate claims for the protection of community interests. The subject of this research is different. By applying the interpretative technique of identifying the intent of the legislator, as well as the linguistic and formal-logical methods of interpretation of legal norms, the article seeks to determine whether the amendments introduced into the Law, whereby the Prosecutor's Office was vested with the power to initiate claims for the protection of community interests, comply with the requirements of Article 176(3) of the Constitution.

II. Research

On the basis of the foregoing, the explanatory note to the Amending Law (hereinafter referred to as the "Explanatory Note")⁹ has been examined, as it allows certain conclusions to be drawn with regard to the issue at hand. First and foremost, it should be noted that the Explanatory Note is primarily aimed at justifying the idea that the Prosecutor's Office should be vested with the power to initiate claims not only for the protection of state interests but also for the protection of community interests. This circumstance allows one to assume that the Explanatory Note was formulated with a predetermined political or legal-policy objective, and that the Amending Law itself was adopted within that framework.

In this respect, it is evident that the Explanatory Note largely focuses on substantiating the necessity of granting the Prosecutor's Office the authority to protect community interests, whereas the preliminary and primary question should have been whether the Constitution, as such, permits the legislature to confer such

⁹ Explanatory Note on the Draft Laws "On Making Additions to the Criminal Procedure Code of the Republic of Armenia" and "On Making Amendments and Additions to the Law of the Republic of Armenia 'On the Prosecutor's Office'", available at: www.parliament.am (accessed: 04.05.2026).

powers upon the Prosecutor's Office through ordinary legislation. Although certain considerations relating to this question are present in the Explanatory Note, they are, in essence, superficial in nature and, in some instances, may even be regarded as manipulative.

Thus, the Explanatory Note states that "neither the Constitution of the Republic of Armenia nor the Law provides a definition of the concept of 'state interest', and such a definition has never existed, which has resulted in the absence of a unified approach to this concept in legal doctrine."

In this regard, it should be noted that not all concepts and terms used in the Constitution and in legislation require a specific normative definition or detailed elaboration. There exist concepts whose content is generally understood and which, in legal doctrine and practice, are perceived as self-sufficient and therefore do not give rise to significant interpretative divergences.

In our assessment, the concept of "state interest" as used in the Constitution falls precisely within this category. In these circumstances, the argument advanced in the Explanatory Note may be countered by the same logic, emphasising that, during the period from 1995 to 2023, the absence of a normative definition of the concept of "state interest" was conditioned not by its indeterminacy, but rather by the fact that no substantial legal issue had arisen concerning the need to distinguish between "state interest" and "community interest".

Subsequently, the Explanatory Note advances the thesis that the concept of "community interest" is encompassed within the concept of "state interest", which, according to its authors, is supported both by international treaties ratified by the Republic of Armenia and by definitions provided in domestic legislation. Below, it will be demonstrated that, in reality, neither international treaties nor domestic legislation substantiate the existence of such an inclusive relationship.

Moreover, even if one were to assume, *arguendo*, that such an approach could in some way be substantiated, it remains evident that neither the provisions of international treaties nor those of sub-constitutional legislation may serve as a benchmark for interpreting the content of the concept of "state interest" as used in the Constitution. *A fortiori*, such sources cannot justify the inclusion of the concept of "community interest" within a category which, at the constitutional level, is formulated as an autonomous and clearly distinct legal notion.

More generally, it should be noted that the current Constitution demonstrates particular caution and systemic coherence in the formulation of legal concepts. Accordingly, it is impermissible to attribute to constitutional notions subjective or excessively broad and expansive interpretations. The interpretation of the

constitutional text must be grounded in its literal, systemic, and teleological understanding, excluding arbitrary generalisations.

The examples set out below demonstrate that the Constitution consistently distinguishes between the concepts of “state”, “community”, “state authority”, and “public authority”, assigning to each a distinct content and legal significance.

Thus, in Article 3 of the Constitution, when referring to the principle that human and civil fundamental rights and freedoms, as directly applicable law, limit authority, the Constitution employs the concept of “public authority”. Such wording is conditioned by the fact that the said limitation applies not only to state authorities but also to bodies of local self-government, that is, to community authorities.

By contrast, in the subsequent Article 4, which concerns the principle of the separation and balance of legislative, executive, and judicial powers, the Constitution uses the concept of “state authority”, since this principle pertains exclusively to the branches of state power and does not extend to the community level.

Another illustrative example is Article 198(1) of the Constitution, according to which the Audit Chamber is an independent state body that carries out audits in the field of public finances and property with respect to the legality and efficiency of the use of state budget and community budget funds, as well as of loans and credits received, and of state and community property. It is noteworthy that, in this case, the Constitution employs the concept of “public finances and property”, thereby emphasising that the competence of the Audit Chamber extends to both the state and the community levels.

If one were to follow the logic proposed in the Explanatory Note and accept that the concept of “state” encompasses “community” as well, the Constitution could have used the formulation “state finances and property”, thereby implicitly including the community component within it. However, no such formulation is used, which once again demonstrates the clear distinction between these concepts.

Finally, let us consider another example. Pursuant to Article 154(2) of the Constitution, the Government administers state property. If, once again, we were to follow the logic advanced in the Explanatory Note and include “community property” within the concept of “state property”, we would arrive at a manifestly disproportionate and legally untenable conclusion, namely that the Government administers not only state property but also community property. Such an interpretation, however, runs counter to the constitutional principle of the autonomy of local self-government.

The Explanatory Note further asserts that the inclusion of the concept of “community interest” within that of “state interest” is allegedly confirmed by international treaties ratified by the Republic of Armenia. In particular, reference is made to Article 3 of the European Charter of Local Self-Government, according to which “local self-government denotes the right and the effective ability of local authorities to regulate and manage a substantial share of state affairs under their own responsibility and in the interests of the local population.”¹⁰

Admittedly, this wording corresponds to the text of the official Armenian translation of the Charter. However, an examination of the official English version of the Charter reveals that the expression “state affairs” appearing in the Armenian text is the result of a translation error. The English original¹¹ employs the term “public affairs”, which literally means “հսնքային հարցեր”, rather than “state affairs.”

It should also be emphasised that Article 179 of the Constitution, which enshrines the right to local self-government, as well as Article 3 of the Law of the Republic of Armenia “On Local Self-Government”¹², both of which define the concept of “local self-government”, consistently employ the formulation “public affairs”, thereby avoiding the expression “state affairs”.

Accordingly, the expression “state affairs” appearing in the Armenian text of the European Charter of Local Self-Government, which is the result of a translation error, cannot serve as a legal basis for asserting that the concept of “community interest” is encompassed within the concept of “state interest”. Consequently, this argument advanced in the Explanatory Note also loses its justificatory value.

It should further be noted that the Explanatory Note, as a whole, is characterised by internal inconsistencies. In particular, on the one hand, it is stated that the legislator has limited the concept of “state interest” by effectively distinguishing community interest from it, on the basis that the latter, together with state interest, forms part of the broader concept of public interest. On the other hand, however, the same Explanatory Note asserts that the concept of “community interest” is encompassed within the concept of “state interest”, with reference both to

¹⁰ European Charter of Local Self-Government, Council of Europe, Strasbourg, 15 October 1985, ETS No. 122, available at: <https://www.arlis.am/hy/acts/80563/latest> (accessed: 04.05.2026).

¹¹ European Charter of Local Self-Government, Council of Europe, Strasbourg, 15 October 1985, ETS No. 122, available at: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=122> (accessed: 04.05.2026).

¹² The Law of the Republic of Armenia “On Local Self-Government”, adopted on 07 May 2002, entered into force on 21 June 2002, RA Official Gazette 2002.06.21/21(196), Art. 473, available at: <https://www.arlis.am/hy/acts/224020/latest> (accessed: 04.05.2026).

international treaties ratified by the Republic of Armenia and to definitions provided in domestic legislation.

Such a dual approach gives rise to a logical contradiction. If it is accepted that the legislator was fully aware of the substantive distinctions between the concepts of “state”, “community”, and “public” interests and, on that basis, deliberately excluded the possibility of the Prosecutor’s Office initiating claims for the protection of community interests from the scope of its powers, it becomes difficult to substantiate the assertion that the concept of “community interest” is, at the same time, encompassed within the concept of “state interest”. In other words, these two approaches are mutually exclusive and cannot be applied simultaneously within the same line of legal reasoning.

The Explanatory Note also seeks to justify the necessity of conferring upon the Prosecutor’s Office the power to initiate claims for the protection of community interests by reference to the fact that the State delegates certain powers to local self-government bodies, which are subject to mandatory financing from the state budget. However, it should be noted that this issue had already been regulated at the legislative level prior to the entry into force of the Amending Law.

In particular, Article 29(1) of the Law, as previously in force, provided that the initiation of claims by the prosecutor for the protection of state interests also encompassed the protection of financial resources allocated by the State to communities for the exercise of delegated powers. In other words, even prior to the adoption of the amendments, the legislator had taken into account the specific nature of delegated powers and their financing and had included their protection within the scope of the “protection of state interests”.

This approach is, of course, fully justified in the context of delegated powers and does not give rise to any substantive inconsistency with the concept of “state interest” as used in the Constitution. However, the same cannot be asserted with respect to those powers of local self-government bodies that are not of a delegated nature. Accordingly, the mere existence of delegated powers could in no way serve as a sufficient legal basis for conferring upon the Prosecutor’s Office the authority to initiate claims for the protection of community interests in non-delegated spheres.

The Explanatory Note also advances, as an additional argument, the thesis that, in the absence of conferring upon the Prosecutor’s Office the authority to initiate claims for the protection of community interests, the existing framework of oversight over communities gives rise to significant risks of inefficient management of community funds. It is argued that an analysis of the Laws of the Republic of Armenia “On Local Self-Government” and “On the Budgetary System

of the Republic of Armenia”¹³ demonstrates that oversight over the activities of local self-government bodies is limited.

However, in this respect as well, it is necessary to reiterate that the purpose of the present article is not to assess the expediency or practical effectiveness of conferring such powers. Admittedly, if the subject of the research were confined solely to considerations of expediency, it is possible that one might conclude that granting such powers to the Prosecutor’s Office could have a positive effect. Nevertheless, if the existing constitutional framework does not provide for such a possibility, then even in the presence of seemingly well-founded risks, their mitigation cannot be achieved through legislative amendments that are inconsistent with the Constitution.

In other words, the reduction of the risks associated with the inefficient management of community funds must be pursued through the application of legal instruments that are consistent with the Constitution. In our assessment, this objective could have been achieved through alternative means, in particular through the improvement of the mechanisms of legal and professional oversight over the activities of local self-government bodies established under the Law of the Republic of Armenia “On Local Self-Government”, without conferring upon the Prosecutor’s Office additional powers not provided for by the Constitution.

It should be noted that, following the adoption of the Amending Law, a certain body of judicial practice has also emerged regarding its application. At the same time, it is important to emphasise that this practice has not developed around the fundamental question of whether conferring upon the Prosecutor’s Office the authority to initiate claims for the protection of community interests is compatible with the Constitution. Rather, it has been primarily concerned with issues relating to the calculation of limitation periods in cases where such claims have been brought by the Prosecutor’s Office.

The essence of the issue lies in the fact that, after the entry into force of the Amending Law, the Prosecutor’s Office began actively to initiate claims for the protection of community interests. In such cases, the Prosecutor’s Office, as a rule, argued that the limitation periods had not expired, on the grounds that they should be calculated from the moment when, by virtue of the entry into force of the Amending Law, the Prosecutor’s Office was vested with the relevant authority.

¹³ The Law of the Republic of Armenia “On the Budgetary System of the Republic of Armenia”, adopted on 24 June 1997, entered into force on 21 August 1997, RA Official Gazette 1997.08.11/18, available at: <https://www.arlis.am/hy/acts/219259/latest> (accessed: 04.05.2026).

At the same time, this position stands in clear logical contradiction to the approaches set out in the Explanatory Note to the Amending Law. In particular, while the Explanatory Note seeks to substantiate that the concept of “community interest” is encompassed within the concept of “state interest”, the Prosecutor’s Office, through its submissions before the courts, effectively acknowledges that it acquired the authority to initiate claims for the protection of community interests only after the entry into force of the Amending Law. This dual approach once again demonstrates the theoretical and logical inconsistencies inherent in the Explanatory Note.

Nevertheless, since the discussions in judicial practice have been concentrated on issues relating to limitation periods, the courts, in analysing the Explanatory Note, have addressed the arguments advanced by the Prosecutor’s Office on that specific issue, while at the same time refraining from engaging with the more fundamental and principled question, namely the constitutionality of the Prosecutor’s Office’s authority to initiate claims for the protection of community interests.¹⁴

In another case, the Court of Cassation of the Republic of Armenia also addressed issues relating to the Prosecutor’s Office’s authority to initiate claims for the protection of community interests; however, once again, this was done not in the context of assessing its constitutionality, but rather within the framework of analysing the objective pursued by the legislator through the adoption of the Amending Law¹⁵.

Admittedly, if the issue is considered solely from the perspective of the legislator’s intent, no substantial controversy arises: it is evident that the legislator aimed to vest the Prosecutor’s Office with the authority to initiate claims for the protection of community interests. However, when the matter is examined from the standpoint of the constitutionality of the legislative amendment in question, it becomes apparent that the courts have thus far refrained from addressing this issue directly.

In our view, however, all the necessary preconditions exist for a court to exercise the power provided for in Article 169(4) of the Constitution and to refer the matter to the Constitutional Court for the purpose of determining the

¹⁴ See, for example, the decision of the Anti-Corruption Court of Appeal of the Republic of Armenia of 17 October 2025 in case No. HKD/0143/02/23, available at: https://datalex.am:443/?app=AppCaseSearch&case_id=47850746040813900 (accessed: 04.05.2026).

¹⁵ Decision of the Court of Cassation of the Republic of Armenia of 10 May 2024 in administrative case No. VD/4571/05/23, available at: <https://arlis.am/hy/acts/193830> (accessed: 04.05.2026).

constitutionality of the relevant provisions. This possibility cannot be excluded in the future. Moreover, it is highly likely that the issue raised in this article will, in due course, become the subject of review by the Constitutional Court, if not at the initiative of the courts, then at least within the framework of individual applications.

In this context, it is also noteworthy that the Anti-Corruption Court of Appeal of the Republic of Armenia has already applied to the Constitutional Court on a similar issue, albeit with a rather unexpected formulation. In particular, the court challenged not the constitutionality of the Amending Law itself, but that of the regulatory framework in force prior to its entry into effect.

Thus, in its application to the Constitutional Court, the Anti-Corruption Court of Appeal requested that Article 29 of the Law of the Republic of Armenia “On the Prosecutor’s Office”, as in force prior to 6 April 2023, be declared unconstitutional and invalid to the extent that it did not provide for the exceptional cases and procedure for the exercise of the Prosecutor’s Office’s authority to initiate claims for the protection of community interests.

However, the Constitutional Court, by its procedural decision of 21 January 2025¹⁶, refused to examine the case on the basis that the applicant had failed to substantiate the existence of a “reasonable doubt” as to the constitutionality of the challenged provision, as required under Article 169(4) of the Constitution.

III. Conclusion

On the basis of the foregoing, a number of conclusions may be formulated regarding the constitutionality of the legislative amendment conferring upon the Prosecutor’s Office the authority to initiate claims for the protection of community interests:

- The evolution of constitutional regulation (1995, 2005, 2015) demonstrates a consistent narrowing of the Prosecutor’s Office’s power to initiate claims for the protection of state interests and the entrenchment of its subsidiary nature, thereby precluding the expansion of this power through ordinary legislation.
- The concept of “state interest” is used in the Constitution as an autonomous legal category, the content of which does not imply the inclusion of

¹⁶ Procedural Decision No. SDAO-7 of the Constitutional Court of the Republic of Armenia, adopted on 21 January 2025, “On Refusing to Examine the Case on Determining the Compliance with the Constitution of Article 29 of the Law ‘On the Prosecutor’s Office’, as in force prior to 6 April 2023, on the Basis of the Application of the Anti-Corruption Court of Appeal”, available at: https://concourt.am/decision/decisions/67934c354bd99_SDAV-7.pdf (accessed: 04.05.2026).

“community interest”; any such interpretation is contrary to the literal and systemic understanding of the constitutional text.

- The expansion of the concept of “state interest” by the Amending Law, through the inclusion of “community interest”, was carried out in a purely mechanical manner, without proper constitutional justification, thereby giving rise to normative uncertainty and a risk of distorting the constitutional text.
- The Explanatory Note to the Amending Law is characterised by internal contradictions and a lack of theoretical coherence, as it simultaneously asserts both the distinction between “state” and “community” interests and their inclusive relationship.
- A systemic analysis of various provisions of the Constitution (in particular, the use of the concepts of “public authority”, “state authority”, “public finances”, and “state property”) demonstrates that the Constitution clearly distinguishes between the state and community levels, thereby excluding their conflation through interpretation.
- An analysis of international legal sources, including the European Charter of Local Self-Government, does not support the inclusion of “community interest” within “state interest”, and the arguments advanced in this regard are based on translation inaccuracies.
- The existence of risks associated with the inefficient management of community funds, however relevant and important, cannot in itself serve as a justification for conferring upon the Prosecutor’s Office additional powers not provided for by the Constitution. The mitigation of such risks must be pursued exclusively through legal mechanisms consistent with the principle of constitutionality. In particular, a more proportionate and lawful solution would have been to improve the existing system of oversight over local self-government bodies, by developing the legal and professional control mechanisms provided for in the Law of the Republic of Armenia “On Local Self-Government”, without disturbing the constitutional balance.
- Judicial practice, having focused on issues relating to limitation periods, has not yet addressed in depth the constitutionality of the Prosecutor’s Office’s authority to initiate claims for the protection of community interests; however, all the necessary legal preconditions exist for this issue to become, in the future, the subject of review by the Constitutional Court.

Conflict of Interests

The author declares no ethical issues or conflicts of interest in this research.

Ethical Standards

The author affirms this research did not involve human subjects.

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