

Case No. EKD/0073/01/2009

June 10, 2009

Yerevan, Republic of Armenia

VERDICT
IN THE NAME OF THE REPUBLIC OF ARMENIA

COMMON JURISDICTION COURT IN KENTRON AND NORK-MARASH
ADMINISTRATIVE REGIONS OF YEREVAN

Presided by: Judge, Zhora Vardanyan
Assisted by: Emma Avetisyan
Participated by: Prosecutor, Hovsep Sargsyan
Prosecutor General's Office of the Republic of Armenia
Counsel, R. Ghazaryan

An open-court hearing (with expedited judicial proceeding) on June 10, 2009 of the criminal case on charges against:

Mariam Mikayel Harutyunyan: born on August 16, 1981 in Yerevan, Republic of Armenia; Armenian by nationality; citizen of the Republic of Armenia; with higher education; married; with two underage dependent children under her care; serving as director of "KH-DEMI" LLC; with no previous convictions; registered at 25 Halabyan Str., Apt. 9, Yerevan, Republic of Armenia; residing at 4 Aygestan 3rd Str., Yerevan, Republic of Armenia.

Mariam Mikayel Harutyunyan is under arrest since February 9, 2009.

Charges are pressed pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

Judicial background of the case

The criminal case was instigated on February 2, 2009, by the Department of Investigations of the National Security Service of the Republic of Armenia.

Description of charges

The accused, Mariam Mikayel Harutyunyan, serving as the director of "KH-DEMI" LLC, running a retail business of selling women's jeans apparel and accessories at "Fashion Time" store, located at 7 Alek Manukyan Str., Apt. 66, Yerevan, Republic of Armenia, thieved funds from bank accounts in the U.S. by means of counterfeit copies of

underlying bank cards (via payments systems “Master Card” and “Armenian Card”), with the assistance of Armen Poghos Hovhannisyan, and later legalized the illicit proceeds.

In particular, on October 17, 2009, the accused, Mariam Mikayel Harutyunyan, accepted a payment from a counterfeit copy of a bank card No. 5490990213934498, issued by the U.S. bank “MBNA America Bank”, and transferred the thieved funds in the amount of 2,983,000 Armenian drams to the bank account of “KH-DEMI” LLC with “Cascade Bank” CJSC.

Upon realizing that the particularly large amount of 2,983,000 Armenian drams (the amount requested in the claim of the U.S. bank “MBNA America Bank”) was proceeds of crime, and with the purpose of disguising the illicit origin of the funds, the accused, Mariam Mikayel Harutyunyan, withdrew the funds in cash, deposited the funds into the cash register of the company as income from sales, and used the funds to make transfers from the bank account of the company, by means of registering the use of the illicit proceeds as incurred expenses.

For the actions committed, charges were pressed against Mariam Mikayel Harutyunyan, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

On May 6, 2009, the criminal case with an indictment was filed to the Court.

Before the court hearing started, the accused, Mariam Mikayel Harutyunyan, petitioned the Court for an expedited judicial proceeding and declared that: her petition was voluntary; she had consulted with her counsel; she realized the consequences of an expedited judicial proceeding; she understood and acknowledged the charges pressed against her; and she pleaded guilty.

The Court, having established the presence of the circumstances set forth under Articles 375.1 and 375.2 of the Criminal Procedure Code of the Republic of Armenia, decided to examine the case with an expedited judicial proceeding.

Based on the evidence supporting the case: testimonies, given in the course of the preliminary investigation by the witnesses, Tigran Shahen Hovhannisyan, Roman Rubik Hovhannisyan, Ashot Petros Petrosyan, Paitsar Sergey Nazaryan; list of suspicious transaction reports received with the official document from November 11, 2008; records of claim examinations; official letter received from the State Revenue Committee of the Republic of Armenia; the verdict from December 19, 2008; bank statement; official letter received from the Central Bank of the Republic of Armenia; official letter of February 2, 2009, from the State Register Agency of Legal Entities under the Ministry of Justice of the Republic of Armenia; expert opinion received from the state non-commercial organization “National Bureau of Expert Examinations”, under the National Academy of Science of the Republic of Armenia; the Court establishes that Mariam Mikayel Harutyunyan committed a theft of particularly large amount, as well as legalized the illicit proceeds, thus committing actions specified under Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

In determining the punishment for the accused, Mariam Mikayel Harutyunyan, the Court takes into consideration the character of the offense, the level of severity of social ramifications, and the absence of factors aggravating the liability.

As a factor mitigating the punishment, the Court takes into consideration that fact that Mariam Mikayel Harutyunyan: pleaded totally guilty; sincerely regretted her actions; is a young woman and, according to her words, her husband has applied for divorce, thus, her two underage children will be left without care, in case she is sentenced to imprisonment; had no prior convictions and charges; positive characteristics.

Upon taking into consideration the circumstances of the case and the factors characterizing the accused, the Court establishes that although Mariam Mikayel Harutyunyan should be subject to imprisonment for the committed actions, it is not desirable for her to serve her punishment in the form of imprisonment for the following reasoning, taking into account the precedent verdicts of the Court of Cassation.

In particular, pursuant to Part 1, Article 10 of the Criminal Code of the Republic of Armenia: “The punishment and other legal and penal measures imposed on the person who committed an offence must be fair, appropriate to the gravity of the crime, to the circumstances in which it was committed, to the personality of the criminal; they must be necessary and sufficient to correct the criminal and to prevent new crimes”.

Pursuant to Part 2, Article 48 of Criminal Code of the Republic of Armenia: “The purpose of punishment is to restore the social justice, to correct the punished person, and to prevent crimes”.

Pursuant to Article 70 of the Criminal Code of the Republic of Armenia, in case the Court establishes (when imposing a punishment in the form of imprisonment) that the correction of the criminal is possible without a punishment, it can decide to conditionally refrain from imposing the punishment.

With its decision No. VB-124/07 from June 12, 2007, the Court of Cassation of the Republic of Armenia has clarified its position on the application of Article 70 of the Criminal Code of the Republic of Armenia, by stating that the implication of the foregoing Article is not conditioned with the type of the offence, the seriousness and nature of the offence, and the persons involved.

Concurrently, the Court of Cassation of the Republic of Armenia has stated: “The only condition for the application of Article 70 of the Criminal Code of the Republic of Armenia is the underlying reasoning. When conditionally refraining from imposing the punishment, the court shall conduct a detailed examination of the conditions underlying the offence and the characteristics of the offender. Most importantly, the Court should come to a reasonable conclusion that the correction of the offender is possible without the punishment”.

The foregoing information leads to a conclusion that, in current conditions, the seriousness level of social ramifications of the crime committed by Mariam Mikayel Harutyunyan has decreased and that her correction is possible without her serving a punishment in the form of imprisonment, thus the Court shall conditionally refraining

from imposing punishment in the form of imprisonment, by means of imposing probation, pursuant to Article 70 of the Criminal Code of the Republic of Armenia.

In determining the punishment, the Court also takes into consideration the fact that Mariam Mikayel Harutyunyan has been under arrest for a period of about four months.

Guided by Articles 357-375 and 375.1-375.4 of the Criminal Procedure Code of the Republic of Armenia, the Court:

DECIDES

To declare Mariam Mikayel Harutyunyan guilty, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, and sentence her to imprisonment for a term of 2 (two) years, pursuant to Clause 2, Part 2, Article 177 of the Criminal Code of the Republic of Armenia; and to imprisonment for a term of 1 (one) year, with confiscation of property equal to the amount of losses caused, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

To impose a total punishment by sentencing Mariam Mikayel Harutyunyan to imprisonment for a term of 2 (two) years and 6 (six) months, upon partial addition of punishments imposed on the bases of Article 66 of the Criminal Code of the Republic of Armenia.

To conditionally refrain from imposing punishment in the form of imprisonment, pursuant to Article 70 of the Criminal Code of the Republic of Armenia, by imposing probation for a period of 2 (two) years, which shall be imposed by the Division of Alternative Punishments (in the region of Mariam Mikayel Harutyunyan's residence) at the Penitentiary Institution under the Ministry of Justice of the Republic of Armenia, while the beginning of the term shall be considered the day of her registration.

To remove the provisional measure of arrest imposed on Mariam Mikayel Harutyunyan and to immediately free her from the court room.

To confiscate the amount of loss caused equal to 2,983,000 Armenian drams from Mariam Mikayel Harutyunyan for the benefit of "Cascade Bank" CJSC, while taking into consideration the fact that a Verdict has entered into force as a result of a civil procedure, according to which the funds will be confiscated from "KH-DEMI" LLC.

To leave the arrest imposed on the account of "KH-DEMI" with "Cascade Bank" CJSC, under the verdict from February 19, 2009, unchanged and the arrest imposed on the property in ownership of the "KH-DEMI", but located in the area rented by the company at 7 Alek Manukyan Str., Apt. 66, Yerevan, Republic of Armenia, unchanged, until the recovery of the losses caused.

This Verdict may be appealed within a month from its publication, pursuant to appealing procedures, except for the case specified under Clause 1, Article 395 of the Criminal Procedure Code of the Republic of Armenia.

JUDGE, ZHORA VARDANYAN

(Extract)

Case No. EKD/0073/01/09

September 30, 2009

Yerevan, Republic of Armenia

VERDICT

IN THE NAME OF THE REPUBLIC OF ARMENIA

CRIMINAL COURT OF APPEALS OF THE REPUBLIC OF ARMENIA

Presiding Judge: A. Khachatryan
Assistant: M. Mahtesyan
Counsel: A. Martirosyan
Representative of victim: A. Karakhanyan
Offender: M. Harutyunyan

An open-court examination (upon the appeal filed by the representative, Aram Karakhanyan, of the victim, "Cascade Bank" CJSC) of the legitimacy and substantiation of the decision from August 11, 2009 on interpreting the ambiguity of the verdict issued on June 10, 2009 by the Common Jurisdiction Court In Kentron and Nork-Marash Administrative Regions of Yerevan on criminal case No. 0073/01/09:

DECIDES

To satisfy the appeal filed by the representative, Aram Karakhanyan, of the victim, "Cascade Bank" CJSC.

To reverse the decision from August 11, 2009 on interpreting the ambiguity of the verdict issued on June 10, 2009 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan on criminal case No. 0073/01/09

To maintain the legal force of the verdict issued on June 10, 2009 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan on the offender, Mariam Harutyunyan, charges pressed, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, and to reject the petition filed by Mariam Harutyunyan claiming an interpretation of the ambiguity in the verdict.

This Verdict may be appealed to the Court of Cassation of the Republic of Armenia within 15 days after the receipt of this Verdict.

PRESIDING JUDGE, A. KHACHATRYAN

Case No. EKD/0073/01/09

November 17, 2009

Yerevan, Republic of Armenia

VERDICT

IN THE NAME OF THE REPUBLIC OF ARMENIA

CRIMINAL COURT OF APPEALS OF THE REPUBLIC OF ARMENIA

Presided by: Judge, A. Khachatryan
Assisted by: M. Mahtesyan
Participated by: Judges, M. Simonyan, S. Avetisyan
Prosecutor, H. Sargsyan
Counsel, A. Martirosyan
Representative of the victim, A. Martirosyan
Offender, M. Harutyunyan

An open-court examination (upon the appeal filed by Anahit Martirosyan, acting as the counsel and advocate of the offender, Mariam Harutyunyan) of the criminal case on charges against the offender, Mariam Harutyunyan, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, the Court:

ESTABLISHES

1. Judicial background of the case

Criminal case No. 58201009 was instigated on February 2, 2009 by the Department of Investigations in the National Security Service Adjunct to the Government of the Republic of Armenia, pursuant to Clause 1, Part 3, Article 177 and Clause 2, Part 2, Article 190 of the Criminal Code of the Republic of Armenia.

Mariam Harutyunyan was arrested on February 9, 2009.

With the decision from February 11, 2009, Mariam Harutyunyan was identified as an accused, and charges were pressed against her, pursuant to Clause 1, Part 3, Article 177 and Clause 2, Part 2, Article 190 of the Criminal Code of the Republic of Armenia.

With the decision from May 4, 2009, the charges pressed against Mariam Harutyunyan were changed, and with another decision from the same day, Mariam Harutyunyan was identified as an accused, and new charges were pressed against her, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

On May 6, 2009, the criminal case with an indictment was filed to the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan (hereinafter: the Court).

With the Verdict from June 10, 2009, Mariam Harutyunyan was declared guilty, pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia, and was sentenced to imprisonment for a term of 2 (two) years, pursuant to Clause 2, Part 2, Article 177 of the Criminal Code of the Republic of Armenia, and to imprisonment for a term of 1 (one) year, with confiscation of property equal to the amount of losses caused, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia: a final punishment was imposed in the form of imprisonment for a term of 2 (two) years and 6 (six) months, with confiscation of property equal to the amount of losses caused, upon partial addition of punishments, pursuant to Article 66 of the Criminal Code of the Republic of Armenia.

Upon the application of Article 70 of the Criminal Code of the Republic of Armenia, the punishment imposed in the form of imprisonment was not applied conditionally, and a probation was applied for a period of 2 (two) years, which was to be imposed by the Division of Alternative Punishments (in the region of Mariam Harutyunyan's residence) at the Penitentiary Institution under the Ministry of Justice of the Republic of Armenia, while the beginning of the term was considered the day of her registration.

The provisional measure of detention, imposed on Mariam Harutyunyan, was removed, and she was immediately released from the court room.

Concurrently, it was decided to confiscate the amount of losses caused in equivalence of 2,983,000 Armenian drams from Mariam Harutyunyan for the benefit of "Cascade Bank" CJSC, while taking into consideration that a civil procedure had resulted in the Verdict, stipulating that the funds were to be confiscated from "Kh-DEMI" LLC.

It was decided to maintain the arrest imposed (upon the decisions from February 19, 2009 and February 20, 2009, respectively) on the account of "Kh-DEMI" LLC with "Cascade Bank" CJSC and on the property in ownership of "Kh-DEMI" LLC (located in the facility rented by the company at 7 Alek Manukyan Str., Apt. 66, Yerevan, Republic of Armenia), until the compensation of the losses caused.

With the decision from June 29, 2009 (based on Sub-clause 2, Clause 1, Clause 9, and Sub-clause 1 (a), Clause 12 of the Decision from June 19, 2009 by the National Assembly of the Republic of Armenia), Mariam Harutyunyan was released from the obligation to serve the punishment imposed with the foregoing Verdict, while the remaining part of the Verdict was left unchanged.

Based on the petition by Mariam Harutyunyan, the following misconception, regarding the compensation of losses indicated in the foregoing Verdict, was interpreted in the decision of the court from August 11, 2009: "The loss caused as a result of the crime, in equivalence of 2,983,000 Armenian drams, shall be confiscated from "Kh-DEMI" LLC for the benefit of "Cascade Bank" CJSC, on a condition that the Verdict (already in force) from December 19, 2008 on the confiscation of this amount is not fulfilled yet".

Based on the appeal by the representative of “Cascade Bank” CJSC, the decision above was reversed by the decision from September 30, 2009 by the Criminal Court of Appeals of the Republic of Armenia, while the Verdict was left unchanged.

With her petition from October 5, 2009, Mariam Harutyunyan solicited the Court to consider her reason for missing the deadline of appealing the Verdict and to recover the missed deadline for appealing the Verdict, in order for her to appeal the very part of the Verdict, which related to the question of resolving the compensation of losses.

With its decision from October 16, 2009, the Court considered the reasons and recovered the missed deadline for Mariam Harutyunyan to appeal the very part of the Verdict No. EKD/0073/01/09 (issued by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan), which related to the question of resolving the compensation of losses.

On October 20, 2009, Anahit Martirosyan, acting as the counsel of Mariam Harutyunyan, filed an appeal against the Verdict from June 10, 2009.

No written responses were received in relation to the appeal.

With the decision of the Court of Appeals from November 5, 2009, the appeal petition was accepted into a procedure, and the case was assigned to an examination, pursuant to the rules for examining cases in the Court of Cassation.

2. Factual circumstances of the case

Mariam Harutyunyan was sentenced for she, working as a director in “Kh-DEMI” LLC (founded on March 26, 2007 and registered at the Nork-Marash Territorial Unit of the State Register of Legal Persons) and running a retail business of selling women’s jeans apparel and accessories at the store “Fashion Time” (located at 7 Alek Manukyan Str., Apt. 66, Yerevan, Republic of Armenia), thieved funds from bank accounts in the U.S. by means of counterfeit copies of underlying bank cards (via payments systems “Master Card” and “Armenian Card”), with the assistance of a Yerevan resident, Armen Hovhannisyan, and legalized the proceeds.

In particular, on October 17, 2008, Mariam Harutyunyan accepted a payment from a counterfeit copy of a bank card No. 5490990213934498, issued by the U.S. bank “MBNA America Bank”, and transferred the proceeds of theft in the amount of 2,983,000 Armenian drams to the bank account of “Kh-DEMI” LLC with “Cascade Bank” CJSC.

Upon realizing that the particularly large amount of 2,983,000 Armenian drams (the amount requested in the claim of the U.S. bank “MBNA America Bank”) was proceeds of crime, and with the purpose of disguising the illicit origin of the funds, Mariam Harutyunyan withdrew the funds in cash, deposited the funds into the cash register of the company in the form of income from sales, and used the funds to make transfers from the bank account of the company, by means of registering the use of the illicit proceeds as incurred expenses.

3. Grounds, arguments, and claims underlying the appeal

The appeal was examined in the framework of the following grounds and with the following reasoning:

The petitioner argued that essential provisions of judicial procedure laws were violated in the course of the court examination of this case and that the resulting Verdict hampered the essence of justice. In particular:

The provisions under Article 126 of the Criminal Procedure Code of the Republic of Armenia were violated, and the Court did not conduct a comprehensive assessment of the evidence obtained within the criminal case (Verdict from December 19, 2008, which resulted from a civil procedure) in comparison with other evidences.

The provisions under Article 25 of the Criminal Procedure Code of the Republic of Armenia were violated, and the Verdict, which had entered into force on December 19, 2008 as a result of a civil procedure, was not taken into consideration; the foregoing Verdict had actually resolved the civil petition. Within the scope of the civil procedure, the Court had established that by virtue of the agreement No. M76, signed on August 21, 2008 between "Cascade Bank" CJSC and "Kh-DEMI" LLC, the two parties were in civil relations. Concurrently, the Court applied Articles 17 and 1075 of the Civil Code of the Republic of Armenia, while establishing that the losses were real and actual, in equivalence of 2,983,000 Armenian drams, and that the petition was subject to satisfaction in whole.

The provisions under Article 155 of the Criminal Procedure Code of the Republic of Armenia were violated, which stipulate that "The fact of a forceful court decision on the same civil petition, a court decision on the withdrawal of the petition by the civil plaintiff or on the settlement, as well as the fact of a forceful court decision, disallowing the petition or satisfying the plaintiff partially or in whole, shall exclude further commencement of a civil petition". However, after the satisfaction (on December 19, 2008) of the civil petition filed by the actual victim, "Cascade Bank" CJSC, against "Kh-DEMI" LLC, the Verdict provided (for the third time) "Cascade Bank" CJSC with the right to be compensated, this time by Mariam Harutyunyan (for the losses caused), while the question of compensating the losses was already considered under the Verdict resulting from the civil procedure (issued upon the petition filed by "Cascade Bank" CJSC against "Kh-DEMI" LLC), and the Verdict entered into force.

The provisions under Article 358 of the Criminal Procedure Code of the Republic of Armenia were violated, which stipulate that "Verdicts must be legal and substantiated".

The conclusion drawn by the Court in the final part of the Verdict from June 10, 2009, stipulating that "The amount of the loss caused, in equivalence of 2,983,000 Armenian drams, shall be confiscated from Mariam Harutyunyan for the benefit of "Cascade Bank" CJSC, while taking into consideration the fact that a Verdict has entered into force as a result of a civil procedure, which stipulates that the funds will be confiscated from "Kh-DEMI" LLC", was not accurate, since, if the Court acknowledged that a Verdict was in force from December 19, 2008 on confiscation of 2,983,000 Armenian drams from "Kh-DEMI" LLC, then the conclusion on confiscating the same funds from Mariam Harutyunyan could not be considered substantiated and well-reasoned.

The petitioner also argued that, since, if the Court took into consideration the Verdict from December 19, 2008 in the final part of its verdict, then the question of compensating the material losses should not have been examined, as the civil petition

filed by “Cascade Bank” CJSC against “Kh-DEMI” LLC on compensation of losses was fully satisfied; in examining the foregoing question, the Court should have taken into consideration the fact that the civil petition on compensation of losses was resolved on December 12, 2008 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan.

Based on the above, the petitioner solicited to partially reverse (regarding the part on compensation of losses) the Verdict issued on June 10, 2009 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan and to make a corresponding amendment, while taking into consideration the fact that the civil petition (on compensation of losses), filed by “Cascade Bank” CJSC against “Kh-DEMI” LLC, was fully satisfied (with the Verdict from December 12, 2008 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan) in the amount of 3,042,660 Armenian drams, including the losses caused in the amount of 2,983,000 Armenian drams.

4. The reasoning and conclusion of the Court of Appeals

Upon examination of the evidences obtained with the criminal case, in the scope of the underlying grounds and reasoning of the appeal petition, the Court of Appeals establishes that the appeal petition filed by the counsel shall be satisfied for the following reasons:

Pursuant to the provisions under Clause 10, Part 1, Article 360 of the Criminal Procedure Code of the Republic of Armenia, in issuing a verdict, the court shall resolve the following questions in the order presented: whether or not to satisfy the civil petition, whether in whole or in part and for which party, and whether or not the material losses caused shall be subject to compensation if no civil procedure has been initiated.

Pursuant to the provisions under Article 158 of the same law:

1. A civil procedure in a criminal proceeding may be initiated at any time beginning from the instigation of the case until the retreat of the court to the consultation room for the delivery of the verdict.
2. A civil procedure may be initiated against the suspect, the accused, or a person, who can bear material responsibility for the actions of the accused.
3. The statement of the petition shall indicate in which criminal case, who, against whom, on what grounds, and in what amount the civil procedure is being initiated. It shall also contain a solicitation to compensate the losses caused in an exact amount.

The examination of the materials in the criminal case indicates that “Cascade Bank” CJSC was identified as a victim in this case, pursuant to the decision from February 2, 2009 by the authority in charge of running the proceedings.

The examination of the materials in the criminal case also indicates that the victim has not initiated a civil procedure either during the pre-judicial or the judicial examination, that is, the question of compensating the losses caused to the victim cannot be resolved in the scope of a civil procedure, since such a procedure is non-existent.

The accused in the criminal case, Mariam Harutyunyan, was declared guilty and sentenced for she, working as a director in “Kh-DEMI” LLC (founded on March 26,

2007 and registered at the Nork-Marash Territorial Unit of the State Register of Legal Persons) and running a retail business of selling women's jeans apparel and accessories at the store "Fashion Time" (located at 7 Alek Manukyan Str., Apt. 66, Yerevan, Republic of Armenia), thieved funds from bank accounts in the U.S. by means of counterfeit copies of underlying bank cards (via payments systems "Master Card" and "Armenian Card"), with the assistance of a Yerevan resident, Armen Hovhannisyanyan, and legalized the proceeds.

In particular, on October 17, 2008, Mariam Harutyunyan accepted a payment from a counterfeit copy of a bank card No. 5490990213934498, issued by the U.S. bank "MBNA America Bank", and transferred the proceeds of theft in the amount of 2,983,000 Armenian drams to the bank account of "Kh-DEMI" LLC with "Cascade Bank" CJSC.

Upon realizing that the particularly large amount of 2,983,000 Armenian drams (the amount requested in the claim of the U.S. bank "MBNA America Bank") was proceeds of crime, and with the purpose of disguising the illicit origin of the funds, Mariam Harutyunyan withdrew the funds in cash, deposited the funds into the cash register of the company in the form of income from sales, and used the funds to make transfers from the bank account of the company, by means of registering the use of the illicit proceeds as incurred expenses.

Alongside the foregoing, the criminal case includes a Verdict (issued on December 19, 2008 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan) on confiscation of funds under a civil procedure, initiated upon the petition filed by "Cascade Bank" CJSC against "Kh-DEMI" LLC; herewith, the petition filed by "Cascade Bank" CJSC was satisfied, and it was decided to confiscate a total of 3,042,660 Armenian drams from "Kh-DEMI" LLC for the benefit of "Cascade Bank" CJSC, including a loss caused in the amount of 2,083,000 Armenian drams and a processed state duty in the amount of 59,660 Armenian drams.

The foregoing Verdict was not reversed and entered into force.

Pursuant to Article 14 of the Civil Procedure Code of the Republic of Armenia, a forceful Verdict is mandatory for all state and local governmental bodies and the officials thereof, as well as for natural and legal persons, and is subject to fulfillment in the whole territory of the Republic of Armenia.

Pursuant to Article 164 of the Criminal Procedure Code of the Republic of Armenia, in exclusive cases when a citizen is deprived of the option to defend his property interests in person, the court has the right, on its own initiative, to make a decision on compensation of losses caused as a result of the crime.

Worth to note that the victim of this crime was a legal, rather than a natural person, and the Court of Appeals, taking into consideration the status of the victim, establishes that the latter has not deprived of the option to defend its property rights, moreover, it has filed a petition to the Court in a civil procedure for compensation of losses, which has been satisfied in an amount equal to that recorded in the indictment and conviction of the offender, Mariam Harutyunyan.

Given these circumstances, the Court of Appeals establishes that the conclusion of the Court on confiscating the losses in the amount of 2,983,000 Armenian drams from

Mariam Harutyunyan for the benefit of “Cascade Bank” CJSC (taking into consideration that a Verdict on confiscating the foregoing funds from “Kh-DEMI” LLC is in force as a result of a civil procedure) is groundless and does not derive from the provisions of the current legislation; hence, the Verdict shall be reversed for the part related to the confiscation of losses caused as a result of the crime, and the questions of the civil petition and of the confiscation of losses shall be considered resolved under this criminal case.

Based on the foregoing and guided by Articles 393-395 of the Criminal Procedure Code of the Republic of Armenia, the Court of Appeals:

DECIDES

To satisfy the appeal filed by Anahit Martirosyan, acting as the counsel of the accused, Mariam Harutyunyan.

To reverse the Verdict (issued on June 10, 2009 by the Common Jurisdiction Court in Kentron and Nork-Marash Administrative Regions of Yerevan) on the criminal case with charges against Mariam Harutyunyan (pursuant to Clause 2, Part 2, Article 177 and Part 1, Article 190 of the Criminal Code of the Republic of Armenia), for the part related to the compensation of losses caused as a result of the crime.

To consider the questions of the civil petition and of the confiscation of losses resolved under this criminal case.

To maintain the rest of the Verdict in force.

This Verdict may be appealed to the Court of Cassation of the Republic of Armenia within a month from its official publication.

JUDGE, A. KHACHATRYAN

(Extract)

Case No. EKD/0073/01/09

January 18, 2010

Yerevan, Republic of Armenia

COURT OF CASSATION OF THE REPUBLIC OF ARMENIA

CRIMINAL CHAMBER

VERDICT ON REJECTING THE CASSATION APPEAL

Presiding Judge: D. Avetisyan

Judges: H. Ghukasyan, H. Asatryan, E. Danielyan, A. Poghosyan, S. Ohanyan

Examining the question of satisfying/rejecting the cassation appeal filed by the representative, Aram Karakhanyan, of the victim, "Cascade Bank" CJSC, against the verdict issued on November 17, 2009 by the Criminal Court of Appeals of the Republic of Armenia:

(...)

DECIDES

To reject the cassation appeal filed by the representative, Aram Karakhanyan, of the victim, "Cascade Bank" CJSC, against the verdict issued on November 17, 2009 by the Criminal Court of Appeals of the Republic of Armenia.

This Verdict enters into force from the moment of its adoption; it is final and not subject to appeal.

PRESIDING JUDGE, D. AVETISYAN

**JUDGES, H. GHUKASYAN, H. ASATRYAN, E. DANIELYAN, A. POGHOSYAN, S.
OHANYAN**