

By the Judgement of 8 July 2021 No. 33-II the Constitutional Court of the Russian Federation assessed constitutionality of Article 242, item 1 and Article 1083, item 2 of the Civil Code of the Russian Federation.

According to provisions of Article 242 of the Civil Code of the Russian Federation in case of natural calamities, accidents, epidemics or epizootics, and under other circumstances of extraordinary nature, property may be, in the interest of society and by decision of state bodies, withdrawn from the owner in accordance with the procedure and on the terms laid down by the law with the cost of the requisitioned property paid out to him or her (requisition).

According to provisions of Article 1083, item 2 of the Civil Code of the Russian Federation if gross negligence of the injured party itself has facilitated emergence or increase of injury, the amount of compensation shall be reduced depending on degree of guilt of the injured party and inflictor of injury (paragraph one); in the event of gross negligence on the part of the injured person and in absence of guilt of inflictor of injury in cases where his or her liability commences regardless of his guilt the amount of compensation shall be reduced or redress of injury may be rejected unless the law provides otherwise; if injury is inflicted on life or health of individual, the refusal to redress injury shall not be allowed (paragraph two); the fault of the injured party shall not be taken into account in cases of reimbursement of additional expenses, redress of injury in connection with death of breadwinner, and also in case of compensation for burial expenses (paragraph three).

The challenged interconnected provisions were recognised to not be in conformity with the Constitution of the Russian Federation insofar as within the current legal framework and in their interpretation by courts they create uncertainty with regard to the issue of defining and paying the owner the cost of animal (cattle) or animal husbandry products withdrawn from him or her upon elimination of centres of extremely dangerous animal infections due to owners' gross negligence, if such negligence contributed to creation and spreading of such centres.

Pending necessary legislative amendments recognition of these interconnected provisions as not conformant with the Constitution of the Russian Federation does not preclude requisition of cattle or products of animal husbandry upon elimination of centres of extremely dangerous animal infections and payment to owners of their value. If the law-enforcement authority comes to conclusion that there are grounds to take into account gross negligence of the owner as contributing to creation and spreading of such centres the resolve of the issue of payment shall be postponed pending introduction of necessary legislative amendments aimed at

execution of the present Judgement irrespective of statute of limitations. If the new legislation provide for full or partial reimbursement, the value of property shall be calculated as of the date of issuing the decision to pay.

Judicial acts delivered in the case of the applicant insofar as they are based on the challenged provisions recognised as non-conformant with the Constitution of the Russian Federation shall be subject to review on the basis of legislative regulations to be adopted with the aim to execution of the present Judgement if it follows from such regulation that claims of the applicant subject to consideration in relevant judicial acts are well-founded.