

By the Judgement of 18 January 2019 No. 5-II the Constitutional Court appraised constitutionality of Article 2.6¹ Section 2 and Article 12.21¹ Sections 1, 2, 3 and 6 of the Code of Administrative Offences of the Russian Federation.

The contested provision was a subject-matter of consideration to the extent to which it serves as a normative ground for the issue of administrative responsibility of owners of the heavy and large vehicles for violation the traffic rules for such vehicles on highways in case of their administrative offences fixation by automatic technical equipment, having the functions of photo- and video- recording (further – special technical means).

The Constitutional Court has recognised the Article 2.6¹ Section 2 of the Code of Administrative Offences of the Russian Federation as not contradicting to the Constitution of the Russian Federation which does not assume releasing the owner of this vehicle from administrative liability for commission of the administrative offences provided by Article 12.21¹ Section 1,2,3 and 6 because at the moment of commission of this offence the vehicle was operated by another person who performed the functions of the driver of the vehicle under an employment contract with its owner.

At the same time the Constitutional Court has recognised Article 12.21¹ Sections 1,2,3 and 6 of the Code of Administrative Offences of the Russian Federation as not conforming to the Constitution of the Russian Federation to the extent to which:

these provisions have established an administrative fine for the owners of mentioned vehicles held liable in the case of fixation of their administrative offenses by special technical means in an amount equal to the maximum limit of an administrative fine for legal entities (individuals engaged in entrepreneurial activities without forming a legal entity) provided for by the relevant part of the same article;

permitting the appointment of an administrative fine, in the amount, not depending on the legal nature of the subject of the administrative offense, to the owner of the specified vehicle - a citizen who is not an individual entrepreneur, these provisions exclude the possibility of proving, when considering his appeal to the judgement in the case of an administrative offence, that at the time of its identification his vehicle was carrying a cargo for personal use.

The Constitutional Court has established that until appropriate legislative amendments have been made, the administrative fine imposed on the owner of the mentioned vehicle for the commission of the offences provided for in Article 12.21¹ of the Code of Administrative Offences of the Russian Federation, fixated by special technical means, shall be the lowest within the amount of the fine for the legal entity established by the relevant part of the same article. If during consideration of the appeal of the citizen – owner of the specified vehicle, being not an individual entrepreneur – on the judgment in the case of administrative offense it will be proved that at the time of detection of this offense the vehicle transported a cargo for personal needs, the administrative penalty appointed to this citizen for commission of the offense provided by Article 12.21¹ Sections 1, 2, 3 and 6 of the of the Code of Administrative Offences of the Russian Federation shall be the lowest within the size of the penalty for the driver established by the corresponding part of the same Article.