

By the Judgement of 17 June 2021 No. 29-II the Constitutional Court assessed constitutionality of Articles 106, 101 and 389², parts two and three, of the Code of Criminal Procedure of the Russian Federation.

These provisions were subject to consideration insofar as they served as basis to apply the measure of restraint in the form of bail, to resolve the issue of its termination, changing, and of the possibility to challenge before an appellate court the refusal to grant a motion to terminate this measure or change it to a more lenient one at the stage of consideration of the criminal case on the merits before the judgement (sentence) is delivered.

The Constitutional Court of the Russian Federation recognised the challenged provisions of articles 106 and 110 of the Code of Criminal Procedure of the Russian Federation as not contradicting the Constitution of the Russian Federation, since under their constitutional legal meaning these provisions imply the following:

where there is no violations related to the paid bail, and thus the possibility to resolve by court of the issue of its levying in favour of the State is excluded, the pledger is entitled to ask inquiry officer, investigator or court to terminate or change the measure of restraint in the form of bail and to return his or her property;

the relevant motion must be resolved by inquiry officer, investigator or court if there aren't any unfulfilled obligations related to the paid bail at the time of its consideration, and it can be granted in presence of extenuating conditions (extraordinary life circumstances), if keeping the bail significantly affects the rights of pledger, and also where ordinary time-limit for investigation or trial was exceeded significantly;

in resolving the motion of the pledger on termination of the measure of restraint in the form of bail the inquiry officer, investigator or court is entitled to choose another measure of restraint, application of which allows achieving its aims on the basis of conditions for its application, upon observing its conditions and under the order prescribed by law;

if an inquiry officer, investigator or court grants the motion of the pledger to lift bail in respect of suspect or accused, and chooses another measure of restraint, the bail is kept until application of the new measure of restraint.

At that, the provisions of Article 389² of the Code of Criminal Procedure of the Russian Federation were recognised by the Constitutional Court of the Russian Federation as not conforming to the Constitution of the Russian Federation insofar

as they do not allow to challenge before an appellate court the judicial decision to refuse the motion to terminate the measure of restraint in the form of bail or change it to a more lenient one, where such decision was taken at the stage of consideration of the criminal case on the merits before the judgement (sentence) is delivered.

The Constitutional Court also established that until the necessary amendments are introduced to the legislation, the court ruling or decision to refuse a motion to terminate the measure of restraint in the form of bail or to change it to a more lenient one, is subject to separate challenge in an appellate court before a judgement (sentence) is delivered in the case.