

By the Judgement of 29 November 2019 No.38-II the Constitutional Court of the Russian Federation appraised constitutionality of Articles 1070 and 1100 of the Civil Code of the Russian Federation and Article 22 of the Federal Law “On the Foundations of the System for the Prevention of Child Neglect and Juvenile Delinquency”

The challenged provisions of Article 22, Section 2, subsection 4, Section 4, para. 2 and Section 6 of the said Federal Law; Article 1070, Section 1 and Article 1100, para. 3 of the Civil Code of the Russian Federation were subject of consideration to the extent regulating the issue of placement in the temporary detention centre for juvenile offenders of the internal affairs bodies for the period up to 30 days of minors committed a socially dangerous act before reaching the age of criminal liability for such an act, in cases where it is necessary to protect life or health of minors or to prevent them from committing another socially dangerous act, as well as the issue of compensation for damages, including moral, caused by illegal placement in the centre is settled.

The Constitutional Court found the challenged provisions of the Federal Law “On the Foundations of the System for the Prevention of Child Neglect and Juvenile Delinquency” not contradicting the Constitution of the Russian Federation, since, in conjunction with other provisions of this Law, they suggest that the issue of placement in such a centre is settled in an adversarial process allowing the party to exercise the right to receive qualified legal assistance, express their arguments, challenge the submitted materials, and the court - evaluate them and make a decision, including stating the possibility, necessity and proportionality of the temporary restriction of the minor’s freedom. The decision is made after a thorough and comprehensive clarification of all circumstances relating to both the commission of a socially dangerous act and the existence of threats to life or health of a minor or the risks of committing another socially dangerous act, while these risks and threats can be prevented by placing the minor in such a centre, and the legality and validity of this court decision can be verified by a higher court, in particular at the request of the minor or his or her representatives.

The challenged provisions of the Civil Code of the Russian Federation were also recognised not contradicting the Constitution of the Russian Federation, since they provide for compensation for the harm to a minor, including moral damages, regardless of the guilt of law enforcement officials and the court whether the minor was placed in such a centre unlawfully.