

By the Judgement of 13 May 2021 No. 18-II the Constitutional Court of the Russian Federation examined constitutionality of Article 131, part 3; Article 132, part 1 of the Criminal Procedural Code of the Russian Federation, as well as item 30 of the Regulation on reimbursement of procedural expenses connected to criminal case proceedings, expenses in connection with commercial court proceedings, proceedings in civil cases, administrative cases, as well as expenses in connection with requirements of the Constitutional Court of the Russian Federation (approved by the Decree of the Government of the Russian Federation of 1 December 2012 No.1240).

These provisions were subject to consideration insofar as they serve as basis to resolve the following issues in connection with termination of a criminal case on a pre-trial stage under non-rehabilitative grounds: on the amount and order of reimbursement from the federal budget of procedural expenses in the form of expenses borne by the victim in order to pay his or her representative; on indexation of the amount of such expenses; on the time limits for consideration of the application of a victim to reimburse procedural expenses.

The challenged provisions were recognised as inconsistent with the provisions of the Constitution of the Russian Federation insofar as they did not ensure adequate legal certainty in respect of the order and amounts of compensation upon adoption by the investigator (inquiry officer, prosecutor) of decision to reimburse expenses of the victim to pay his or her representative if a criminal case had been terminated on a non-rehabilitative ground; did not allow to ensure effective judicial protection of the right of the victim to obtain such reimbursement in reasonable time; and did not foresee legal mechanism of indexation of the amount of relevant compensation.

Until the necessary regulation is introduced the reimbursement of the victim's expenses for payment to his or her representative in a criminal case terminated on a non-rehabilitative ground on pre-trial stage shall be done with due regard of the following:

upon defining the amount of reimbursement one should proceed from the understanding that all the relevant and reasonable expenses for payment to the representative of the victim are subject to reimbursement (including the period before his or her formal recognition as victim of a crime); this includes expenses connected to challenging refusal to initiate a criminal case, since the criminal case was eventually initiated, and to challenging a decision to terminate a criminal case, since this decision was eventually quashed; such expenses should be proved by documents;

expenses are reimbursed by federal budget irrespective of the guilt of the officials of the bodies conducting criminal prosecution;

expenses are reimbursed bearing in mind the inflation rate;

issue of necessity, reasonableness and the amount of expenses of the victim to for payment of his or her representative if a victim challenged the relevant decision of the investigator (inquiry officer, prosecutor) in court, shall be resolved directly by such court.