

**Judgment of the Constitutional Court of the Russian Federation of 10
October 2013 No. 20-II. Resume.**

By the Judgment of 10th October 2013 No. 20-II the Constitutional Court gave appraisal of constitutionality of Sub-Item “a” of Item 3.2 of Article 4 of the Federal Law “*On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation*”, Section 1 of Article 10 and Section 6 of Article 86 of the Criminal Code of the Russian Federation

The subject-matter of consideration by the Constitutional Court in this case were the said normative provisions as establishing in relation to citizens of the Russian Federation having ever been convicted to deprivation of liberty for the commission of grave and (or) particularly grave crimes ban for realization of the right to be elected to bodies of State power and bodies of local self-government and to the extent to which on the basis of these legislative provisions the question is solved of the possibility to limit passive electoral right in relation to the indicated category of citizens of the Russian Federation, whose previous convictions have been removed or cancelled, as well as of the possibility to extend to them the new criminal law in accordance with which actions committed by them do not belong to grave or particularly grave crimes any more.

By its decision, the Constitutional Court recognized Sub-Item “a” of Item 3.2 of Article 4 of the Federal Law “*On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation*” as conforming to the Constitution of the Russian Federation to the extent to which limitation of passive electoral right, not being criminal penalty, established by this Sub-Item in relation to citizens of the Russian Federation convicted to deprivation of liberty for grave and (or) particularly grave crimes, may be applied in the mechanism of general legal consequences of the conviction without special indication in the sentence as established for a certain term constitutional-law disqualifying obstacle for occupation of elective public posts by such persons after having served penalty by them.

The said normative provision at the same time has been recognized as not conforming to the Constitution of the Russian Federation to the extent to which it establishes indefinite and undifferentiated restriction of passive electoral right in relation to the indicated category of citizens.

By the decision of the Constitutional Court the provisions of Sub-Item “a” of Item 3.2 of Article 4 of the Federal Law “*On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation*” and Section 6 of Article 86 of the Criminal Code of the Russian Federation in their interconnection have been recognized as not contradicting the

Constitution of the Russian Federation so far as it is contemplated that the terms of limitations of passive electoral right, introduced by the federal law, as a general rule, must be established in accordance with the differentiation of the terms envisaged by the Criminal Code of the Russian Federation, for which previous convictions remain on the criminal record.

At this, in exceptional cases, for individual grave and particularly grave crimes, proceeding from the increased degree of their public danger, federal law may introduce restrictions of passive electoral right for longer terms with the observance of constitutional criteria of proportionality and necessity.

Finally, the provisions of Sub-Item “a” of Item 3.2 of Article 4 of the Federal Law “*On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation*” and Section 1 of Article 10 of the Criminal Code of the Russian Federation in their interconnection have been recognized as not conforming to the Constitution of the Russian Federation to the extent to which they serve as ground for refusal to restore passive electoral right to citizens who were convicted to deprivation of liberty for the commission of grave and (or) particularly grave crimes and whose previous convictions have been removed or cancelled, in case of adoption of a new criminal law, according to which actions committed by them are not recognized as grave or particularly grave crimes any more.

10 October 2013