

**Judgment of the Constitutional Court of the Russian Federation of 18 July  
2013 No. 19-II. Resume.**

**By the Judgment of 18 July 2013 No. 19-II the Constitutional Court gave appraisal of constitutionality of Item 13 of Section 1 of Article 83, Paragraph 3 of Section 2 of Article 331 and Article 3511 of the Labour Code of the Russian Federation**

The subject-matter of consideration in the present case were the contested normative provisions to the extent to which the question is solved on their basis of the possibility of carrying out educational activity, as well as other professional activity in the field of education, upbringing, development of minors, organization of their rest and sanitation, health maintenance, social protection and social service, in the field of children's and youthful sports, culture and art with participation of minors (hereinafter referred to as "educational and other activity with participation of minors") by persons having or having had criminal record, persons, criminal persecution in whose respect has been discontinued on non-rehabilitating grounds, and by persons exposed or having been exposed to criminal persecution (with the exception of persons criminal persecution in whose respect has been discontinued on rehabilitating grounds) for commission of crimes enumerated in Paragraph 3 of Section 2 of Article 331 and Article 3511 of the Labour Code of the Russian Federation, including in cases when criminal record has been removed or cancelled.

The contested provisions have been recognized as not contradicting the Constitution of the Russian Federation as signifying that the following persons are not admitted to engagement in educational and other activity with participation of minors (and those having worked at the moment of entering of the contested Federal Law into force are subject to discharge):

persons having criminal record for commission of crimes, indicated in Paragraph 3 of Section 2 of Article 331 and Article 3511 of the Labour Code of the Russian Federation;

persons having had criminal record for commission of grave and particularly grave crimes indicated in these legislative provisions, as well as crimes against sexual inviolability and sexual freedom of person;

persons having had criminal record for commission of other crimes indicated in these legislative provisions, as well as persons, criminal persecution in whose respect on accusation of commission of crimes indicated in these legislative provisions has been discontinued on non-rehabilitating grounds.

At the same time, the contested normative provisions have been recognized as not conforming to the Constitution of the Russian Federation to the extent to which they introduce unconditional and indefinite ban on engagement in educational and other activity with participation of minors and, accordingly, contemplate

unconditional discharge of persons having had criminal record (as well as persons in whose respect criminal persecution has been discontinued on non-rehabilitating grounds) for commission of other crimes indicated in these legislative provisions, except for grave and particularly grave ones, as well as crimes against sexual inviolability and sexual freedom of person, not envisaging at this the need to consider the type and degree of gravity of the crime committed, the time having passed since the day of its commission, form of guilt, circumstances characterizing the personality, including person's behaviour after commission of the crime, attitude to fulfillment of labour duties, as well as other factors allowing to determine whether a concrete person represents danger for life, health and morality of minors.

The contested normative provisions have been recognized as not conforming to the Constitution of the Russian Federation also to the extent to which they envisage obligatory and unconditional discontinuance of the labour contract with a workman carrying out educational and other activity with participation of minors, if this person is exposed to criminal persecution for respective crimes before resolution of a criminal case in substance or before termination of proceedings on a criminal case.

Finally, the contested norms have been recognized as unconstitutional, so far as they admit coming of unfavourable consequences envisaged by them in connection with commission by a person of a deed that is not recognized as crime at the moment of decision of the question of employment or discharge.

Until appropriate legislative amendments are made, persons having criminal record for commission of crimes indicated in Paragraph 3 of Section 2 of Article 331 and Article 3511 of the Labour Code of the Russian Federation, persons having had criminal record for commission of grave and particularly grave crimes from the number of those indicated in these legislative provisions, as well as crimes against sexual inviolability and sexual freedom of person may in no event be admitted to educational and other activity with participation of minors (and those working are subject to discharge).

When applying the contested provisions in respect of persons having committed other crimes from the number of those indicated in these provisions, at that their criminal record has been removed or cancelled, or persons in whose respect criminal persecution on accusation of commission of such crimes has been discontinued on non-rehabilitating grounds, it is necessary to take into account factors allowing to assess the capability of these persons to carry out professional activity connected with regular and immediate contacts with minors without the risk to expose their life, health and morality to danger.

As far as temporary discharge from work of persons suspected or accused of commission of crimes from the number of those indicated in Paragraph 3 of

Section 2 of Article 331 and Article 3511 of the Labour Code of the Russian Federation before resolution of a criminal case in substance or before termination of proceedings on a criminal case is concerned, it shall be carried out – until amendments to the operating legal regulation are made – in the procedure established by Article 114 of the Criminal Procedure Code of the Russian Federation and Article 76 of the Labour Code of the Russian Federation, in the presence of the grounds to suppose that such persons represent potential danger for life, health and morality of minors.

***18 July 2013***