

**Judgment of the Constitutional Court of the Russian Federation of 19
November 2013 No. 24-II. Resume.**

By the Judgment of 19th November, 2013 No. 24-II the Constitutional Court gave appraisal of constitutionality of the provisions of Section 1 of Article 10 of the Criminal Code of the Russian Federation, Section 2 of Article 24, Section 2 of Article 27, Section 4 of Article 133 and Article 212 of the Criminal Procedure Code of the Russian Federation

The contested provisions were the subject-matter of consideration in the present case to the extent to which at the pre-trial stage of the criminal proceedings the question is decided on their basis on discontinuance of the criminal case and criminal persecution in connection with elimination of criminality and punishability of the action, the suspect or the accused is charged with, by the new criminal law in the event that the indicated person objects against discontinuance of the criminal case without court review and appraisal of legality and validity of the suspicion, accusation brought forward in his respect.

By its decision, the Constitutional Court recognized the indicated legislative provisions as not conforming to the Constitution of the Russian Federation to the extent to which they deprive the person, whose criminal persecution has been discontinued in consequence of adoption of a new criminal law, eliminating criminality and punishability of the action which he is charged with, of the possibility to appeal in court procedure the legality and validity of the acts of bodies of inquiry and preliminary investigation, issued in the course of carrying out criminal persecution of this person, including those fixing the suspicion, accusation of the action which he is charged with brought forward, application of measures of procedural compulsion in the course of proceeding in the criminal case, and in case of establishment of their illegality and invalidity – of the possibility to recognize his right to rehabilitation.

The Constitutional Court pointed out that until appropriate amendments are made to the Criminal Procedure Code of the Russian Federation, the court considering a person's complaint on the resolution on discontinuance of the criminal case and criminal persecution in connection with adoption of the new criminal law, eliminating criminality and punishability of the action he is charged with, is obliged, in the procedure of court examination, with consideration of the stage of criminal proceedings, to review in substance the arguments expounded in the complaint and appraise legality and validity of the acts of bodies of inquiry and preliminary investigation, issued in the course of carrying out of criminal persecution of this person, including those fixing the suspicion, accusation of the action which he is charged with brought forward, application of measures of procedural compulsion to him and, accordingly, decide the question whether there are grounds for application of the rehabilitation procedure, which must in any event be illegality of the institution of the criminal case, illegality of bringing forward of a suspicion, accusation, illegality of accusatory conclusion (act of

indictment, accusatory resolution), as well as illegality of application of measures of procedural compulsion in the course of proceeding in the criminal case.

If investigation of a criminal case in relation to the person is continued in connection with the presence of signs of other crimes in his action and the criminal case is subject to sending to court for its consideration in substance, the question of the right to partial rehabilitation of a person, in respect of whom the decision has been taken on discontinuance of criminal persecution in connection with the elimination of criminality and punishability of an action he is charged with by the new criminal law, is subject to resolution by the court in the course of proceedings in the criminal case with regard to legal positions expressed in the present Judgment.

19 November 2013