

By the Judgment of 6th November, 2014 No. 27-II/2014 the Constitutional Court gave appraisal of constitutionality of Articles 21 and 21¹ of the Law of the Russian Federation “On State Secret”.

The contested provisions were the subject-matter of consideration to the extent to which they serve as ground for resolution of the question of the possibility for a barrister-representative of a close relative of a person, on the fact of whose decease review of the information about a crime was conducted, to familiarize himself with resolutions on refusal to institute criminal proceedings and resolutions on their abrogation as well as with materials of the review having served as ground for such procedural decisions, in connection with the presence in them of information in the field of operational and search activity constituting State secret.

The Constitutional Court, recognizing the contested norms as not contradicting the Constitution of the Russian Federation, proceeded from the fact that they contemplate no restriction of the right of the barrister-representative of a person demanding institution of criminal proceedings in connection with the death of his close relative to familiarize himself with the resolution on refusal to institute criminal proceedings on this fact and materials having served as ground for such procedural decision, with reference to the fact that they contain information in the field of operational and search activity constituting State secret.

The Constitutional Court pointed out that the question of institution of criminal proceedings is resolved by competent officials with the use of only that information on the presence or absence of signs of a crime and other legally significant facts, obtained as a result of operational and search activity, which can be verified in the procedure envisaged by criminal procedure law, for confirmation of validity of procedural decisions adopted at this stage of criminal judicial proceedings on the outcome of consideration of the report about a crime.

Besides, competent officials are obliged to undertake all measures appertaining to their competence in order that only that information be contained in the materials of verification of the report about a crime, sent for resolution of the question on institution of criminal proceedings, which according to operating

criminal procedure legislation is necessary for adoption of a respective procedural decision. At this collisions must be excluded between the requirements of the protection of State secret as applied to the information about forces, means, sources, methods, plans of operational and search activity, being or having been used when conducting secret operational and search measures, about persons inculcated in the organized criminal groups, about permanent secret staff-members of bodies carrying out operational and search activity and persons helping them on confidential basis, about organization and tactics of holding operational and search measures, on the one hand, and guarantees of rights of the person demanding institution of criminal proceedings in connection with the death of his close relative as well as the barrister who is his representative to familiarize themselves with the resolution on refusal to institute criminal proceedings on this fact and the materials having served as ground for such procedural decision, on the other.