

By the Judgment of 11th November, 2014 No. 28-II/2014 the Constitutional Court gave appraisal of constitutionality of the provisions of Section 1 of Article 1 of the Federal Law “On Compensation for Violation of the Right to Judicial Proceedings within a Reasonable Time or the Right to Execution of a Judicial Act within a Reasonable Time” and Section 3 of Article 6¹ of the Criminal Procedure Code of the Russian Federation.

The contested normative provisions were the subject-matter of consideration to the extent to which they serve as ground for resolution of the question of the possibility to consider application on awarding compensation for violation of the right to criminal judicial proceedings within a reasonable time of a person, in whose respect there was adopted no procedural decision on recognition as victim in a criminal case, including in connection with refusal to institute it, and of a person recognized as victim, if since the moment of their petition with application a significant time has passed comparable in length with term of limitation of criminal persecution, whose expiry has served as ground for passing resolution on refusal to institute criminal proceedings or to discontinue proceedings on a criminal case.

The Constitutional Court recognized the contested norms as not contradicting the Constitution of the Russian Federation to the extent to which they do not admit return of the application on awarding compensation for violation of the right to judicial proceedings within a reasonable time to the person, on whose application on a crime institution of criminal proceedings was renounced in connection with expiry of the term of limitation of criminal persecution, or refusal to pay compensation to such a person solely on a formal ground that in his respect no decision was adopted on recognition as victim, if the position of bodies of inquiry, preliminary investigation, prosecutor’s office on the presence of grounds for institution of criminal proceedings during the period of preliminary investigation repeatedly changed and (or) if it was established by a judicial decision adopted subsequently that renunciation of institution of criminal proceedings prior to the expiry of terms of limitation of criminal persecution was unlawful, unfounded.

According to the constitutional-law meaning of the contested legislative provisions revealed by the Constitutional Court they, further, do not admit return of the application on awarding compensation for violation of the right to judicial proceedings within a reasonable time or refusal to pay compensation to the victim of a crime in cases when proceeding on a criminal case has been discontinued in connection with the expiry of the term of limitation of criminal persecution, which on this crime is less than the term of proceedings on a criminal case established by the legislation, allowing to petition a court with application on awarding compensation, solely on a formal ground that duration of the proceeding on this criminal case prior to the expiry of the term of limitation of criminal persecution has not exceeded the term established as a condition of petitioning the court with the indicated application as applied to persons, proceeding on whose cases continues.

At this it is in any event contemplated that a person petitioned with application about a crime in good time, i.e. during a short time since the moment when he (she) learned or must have learned about an action having signs of a crime, and actions of a prosecutor, head of an investigation body, investigator, chief of a subdivision of inquiry, body of inquiry, inquirer, connected with verification of the application about a crime, resolution of the question on institution of criminal proceedings and establishment of a suspect (accused) of the commission of a crime, – proceeding from circumstances indicated in the application on awarding compensation for violation of the right to criminal judicial proceedings within a reasonable time – need additional appraisal from the point of view of their sufficiency and effectiveness.