

By the Judgment of 8th November, 2016 No. 22-II/2016 the Constitutional Court gave appraisal of constitutionality of Paragraph 3 of Article 5 and Item 5 of Article 8 of the Federal Law “On Material Responsibility of Military Servicemen”

The contested provisions were the subject-matter of consideration insofar as they serve as a ground for the resolution of the question of making a military serviceman fully materially answerable in connection with the presence of a *corpus delicti* in an action which he is being charged with, if a criminal case in his respect has been discontinued by a body of preliminary investigation owing to the expiry of terms of limitation of criminal persecution.

The Constitutional Court has recognised the contested provisions as conforming to the Constitution of the Russian Federation to the extent to which they contemplate making a military serviceman fully materially answerable for damage, caused by him to property being in federal ownership and assigned to military units, in the event of the commission of a crime envisaged by the criminal legislation of the Russian Federation, which has been established by a court sentence having entered into legal force, and in the absence of such a sentence do not hinder adoption within the bounds of a term determined by Item 4 of Article 3 of this Federal Law of the decision on exaction from the military serviceman of the damage caused by him in a limited or – in the presence of other grounds enumerated in its Article 5 – in a full amount provided that legally significant circumstances, necessary and sufficient for making this person materially answerable in an according way, have been established in the appropriate procedure.

At the same time, the contested normative provisions have been recognised as not conforming to the Constitution of the Russian Federation as allowing the possibility of making such military serviceman fully materially answerable for damage caused to this property as a consequence of establishment in his actions (inaction) of signs of a *corpus delicti* envisaged by the criminal legislation of the

Russian Federation (and thereby his actual recognition as guilty of the commission of a crime) by a law-enforcement decision, other than a court sentence passed in the procedure of criminal judicial proceeding. This applies also to a judicial decision adopted in the procedure of a civil court proceeding on the ground of data on actual circumstances of the action, contained in the act of a body of preliminary investigation on discontinuance of the criminal case, and its conclusions as to the commission of this action by this person.