

By the Judgment of 10 February 2017 No. 2-II the Constitutional Court gave appraisal of constitutionality of the provisions of Article 212¹ of the Criminal Code of the Russian Federation

The contested provisions were the subject-matter of consideration insofar as they serve as a ground for the resolution of the question of whether in an action there are signs of criminally unlawful breach of the established order of the organisation or holding of an assembly, meeting, demonstration, procession or picketing and of application of a criminal punishment in the form of deprivation of liberty to the person who committed it.

The Constitutional Court has recognised the contested provisions as not contradicting the Constitution of the Russian Federation, so far as they:

allow to expose to criminal persecution for breach of the established order of the organisation or holding of an assembly, meeting, demonstration, procession or picketing (hereinafter referred to as “respective breach”) a person having earlier been made administratively answerable no less than 3 times during 180 days for administrative offences, envisaged by Article 20.2 of the Administrative Offences Code of the Russian Federation, if this person has once again breached the established order of the organisation or holding of an assembly, meeting, demonstration, procession or picketing within the bounds of a term, during which he is regarded as exposed to administrative punishment for the said administrative offences;

contemplate that making a person criminally answerable for the crime envisaged by this Article is only possible in the event if the respective breach has entailed causing or a real threat of causing harm to people’s health, property of natural or juridical persons, environment, public order, public security or other constitutionally protected values;

exclude the possibility to make criminally answerable for a respective breach a person, in whose respect by the moment of the commission of an act he is

being charged with, there were no judicial acts in legal force on his making administratively answerable no less than 3 times during 180 days for administrative offences, envisaged by Article 20.2 of the Administrative Offences Code of the Russian Federation;

admit making a person criminally answerable under this Article only in the event if the respective breach was intentional;

mean that actual circumstances established by judicial acts on cases of administrative offences in legal force in themselves do not predetermine court's conclusions about guilt of a person, in whose respect they have been delivered, of the commission of a crime envisaged by this Article, which must be established by court in procedures provided for by the criminal procedure law on the basis of the entire aggregate of proof, including those not examined during the consideration of cases on administrative offences committed by this person;

imply the possibility to prescribe to this person a punishment in the form of deprivation of liberty only under condition that the respective breach has entailed loss of peaceful character by the public event (if the respective breach does not fall under signs of the crime envisaged by Article 212 "Mass Rioting" of the Criminal Code of the Russian Federation) or causing or a real threat of causing substantial harm to people's health, property of natural or juridical persons, environment, public order, public security or other constitutionally protected values and attainment of the goals of criminal responsibility for the crime envisaged by this Article is impossible without prescription of this kind of punishment.