

By the Judgement of 9 November 2018 No. 39-П/2018 the Constitutional Court appraised constitutionality of Sections 1, 3 and 4 of Article 35 of the Criminal Procedure Code of the Russian Federation.

The contested provisions were a subject-matter of consideration insofar as on their basis it is decided to alter territorial cognisance of a criminal case by way of its passing from the court in which it was received according to the cognisance and whose jurisdiction extends to the territory where an accused (one of several accused) by virtue of his position, including official, had influence (or actually keeps it) on activities of State and public institutions prior to the commencement of the proceeding in this criminal case to the court of the same level, but of another territorial jurisdiction.

The Constitutional Court has recognised the contested provisions as not contradicting the Constitution of the Russian Federation to the extent to which they do not exclude the possibility of alteration of territorial cognisance of a criminal case in the event if in the territory falling under the jurisdiction of the court in which this criminal case was received the remaining actual influence of an accused or of one of several accused (including determined by his position prior to the commencement of the proceeding in this criminal case) on activities of State and public institutions creates threat to guarantees of objective and impartial justice.

The Constitutional Court has pointed out that in the presence of the said circumstances, hindering consideration of a criminal case by the court, to whose cognisance it is ascribed by law, the question of alteration of territorial cognisance of this criminal case shall be considered on application of the Prosecutor General of the Russian Federation or his Deputy by a judge of the Supreme Court of the Russian Federation within the framework of a competitive judicial proceeding in ensuring to its participants guarantees of fair trial, which contemplates in choosing a court, to which the criminal case must be passed for consideration, opinion of parties on the presence of any obstacles for passing the case to a specific court and

observance of the principle of accessibility of justice (territorial and transport accessibility, technical resources of video-conference communication, judicial costs, etc.) must be taken into account. Decision on the alteration of territorial cognisance of a criminal case passed in this procedure may be appealed or a prosecutor's report may be submitted against it.