

By the Judgement of 15 October 2018 No. 36-II/2018 the Constitutional Court appraised constitutionality of Section 1 of Article 10 of the Criminal Code of the Russian Federation, Section 2 of Article 24, Section 2 of Article 27, Section 1 of Article 239 and Item 1 of Article 254 of the Criminal Procedure Code of the Russian Federation.

The contested provisions were a subject-matter of consideration insofar as on their basis is resolved the question of discontinuance of a criminal case on request of the aggrieved party, instituted by a court on application of the aggrieved or his legal representative, in connection with adoption of a law removing criminality and punishability of an action (hereinafter – law on decriminalisation), contrary to objections of the defendant, insisting on passing a decision on the matter.

The Constitutional Court has recognised these provisions as not contradicting the Constitution of the Russian Federation, insofar as they contemplate that the court in whose proceedings is the criminal case on request of the aggrieved party, instituted on application of the aggrieved or his legal representative, must clear up the defendant's position with regard to the discontinuance of this case in connection with the adoption of the law on decriminalisation, and can only discontinue the criminal case in the presence of his consent. In the event when the defendant objects against the discontinuance of the criminal case in connection with the adoption of the law on decriminalisation, the court must consider the case in essence within the framework of proceedings on cases on request of the aggrieved party and, having examined available evidence, either to render verdict of “not guilty” or to discontinue the criminal case on this ground.