

**By the Judgement of 25 October 2018 No. 38-II/2018 the Constitutional Court appraised constitutionality of Section 1 of Article 127 and Section 1 of Article 392 of the Labour Code of the Russian Federation.**

The contested provisions were a subject-matter of consideration insofar as they serve as ground for a decision on the amount of monetary compensation due to an employee in dismissal for unused leaves, exacted in judicial procedure.

The Constitutional Court has recognised the contested provisions as not contradicting the Constitution of the Russian Federation, so far as they do not restrict an employee's right to the receipt of monetary compensation for all unused leaves in dismissal and, if this compensation was not paid by an employer directly in dismissal, they do not deprive the employee of the right to its exaction in the judicial procedure irrespective of the time which passed after the moment of termination of working year for which one or another unused (fully or partly) leave should have been granted, provided that appeal to court with respective demands was made within the term established by law and calculated from the moment of discontinuance of the labour agreement.

The Constitutional Court has pointed out that a court, establishing grounds for satisfaction of claims laid during consideration of labour dispute on payment of monetary compensation for unused leaves to an employee, must appraise the totality of circumstances of a specific case, including reasons for which the employee has not timely used his right to paid annual leave, presence or absence of violation of this right by the employer, specificity of legal status of the employee, his place and role in the mechanism of labour management with a specific employer, the possibility of both abuse of influence on documentary legalisation of decisions on granting paid annual leave to an employee and actual use of leaves formally not granted to him in the established order, etc.