

By the Judgement of 28 December 2020 No. 50-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 77.1 of the Criminal Executive Code of the Russian Federation and Article 18 of the Federal Law “On the Detention of Suspects and Persons Accused of Committing Crimes”.

The challenged provisions were the subject of consideration to the extent that they did not provide long-term visits to persons sentenced to imprisonment who were left in a remand prison or transferred to a remand prison from a correctional facility, educational colony or prison, if it was necessary to participate in investigative actions as a suspect, accused or for participation in a trial as an accused.

The challenged provisions in their interrelation were found to be inconsistent with the Constitution of the Russian Federation to the extent that these persons are deprived of the right to long visits without statutory grounds subject to judicial control, and at the same time without taking into account the length of stay in a remand prison in accordance with Article 77.1 of this Code.

The Constitutional Court determined the following procedure for the execution of this decision:

pending the introduction of appropriate amendments to the Criminal Executive Code of the Russian Federation and other legislative acts, the issue of limiting the right to long visits belonging to these persons is subject to resolution by the court, taking into account the circumstances indicating whether the provision of a long visit can interfere with the proceedings on a criminal case or its resolution by the court;

if it is necessary to restrict such a convicted person in his or her right to long visits, the investigator, with the consent of the head of the investigative body, or the inquirer, with the consent of the prosecutor, shall file a reasoned petition before the court with the attachment of materials confirming its validity. If the term of a convicted person's stay in a remand prison in accordance with Article 77.1 of the Criminal Executive Code of the Russian Federation exceeds six months (including taking into account a temporary return to a correctional facility, educational colony or prison, during which a long visit was not provided), a long visit is granted, unless when the decision to restrict this person in the right to a long visit was made by such a court, which is authorised to extend the term of detention for more than six months in accordance with the provisions of the Criminal Procedure Code of the Russian Federation;

the right to demand a long visit in accordance with this Judgement arises after two months from the date of its entry into force.

The Constitutional Court separately noted that the applicant has the right to apply to the court for the application of compensatory mechanisms in connection with the law enforcement decisions taken against him based on the challenged provisions. The form and amount of compensation, as well as the existence of grounds for its application, are determined in accordance with paragraph 7 of the reasoning part of this Judgement by the court, which considered the applicant's case in the first instance, in which the contested regulations were applied.