

By the Judgement of 16 December 2021 No. 53-II the Constitutional Court of the Russian Federation assessed constitutionality of Article 416 and 417 the Criminal Procedure Code of the Russian Federation.

These legal provisions were the subject of consideration insofar as they determine the powers of the court to resolve a complaint against the prosecutor's decision to terminate proceedings initiated due to new or newly discovered circumstances, regarding the requirement for the resumption of criminal proceedings by the court.

Also the challenged norms were recognised as not conformant to the Constitution of the Russian Federation, since, according to their constitutional meaning within the framework of current legal system, they allow the court, when recognising as illegal or unjustified the prosecutor's decision to terminate criminal proceedings due to new or newly discovered circumstances on the complaint of the interested person, to decide to cancel the verdict, decision or judgement of the court and to transfer the criminal case for a new trial or to decide on their cancellation and termination of the criminal case if such conditions coincide, when:

the initiated review of the criminal case is aimed at improving the legal status of the convicted person;

the court had previously, upon the complaint of the convicted person, already recognised the illegality or groundlessness of the prosecutor's decision to terminate proceedings due to new or newly discovered circumstances in this case or the illegality of the prosecutor's inaction to prepare a conclusion for the review of the case due to newly discovered circumstances;

the materials of the inspection or investigation, including those requested by the court, contain, in the opinion of the court, sufficient information indicating the existence of circumstances that led to the judgement containing a fundamental judicial error, including homogeneous in content to newly discovered circumstances, as defined by the Criminal Procedure Code of the Russian Federation, despite the fact that for objective reasons, the acts of the court or investigation (inquiry), specified in Article 413, items 3 and 5, are impossible.