

By the Judgement of 6 October 2022 No. 41-II Constitutional Court of the Russian Federation assessed constitutionality of Article 27, part 1, sub-item 12 of the Federal Law “On the procedure for exit from the Russian Federation and entry into the Russian Federation”

The said provision became subject to examination insofar as within the current legal framework it serves as a basis for the authorized body resolves the issue of non-admission to the territory of the Russian Federation in connection with a violation of the established period of stay of a foreign citizen, in respect of whom the court, in connection with the same violation, issued a decision on the case of an administrative offense, but found it impossible to impose an administrative penalty in the form of administrative expulsion from the Russian Federation, which is mandatory for this administrative offense, due to his family situation.

The challenged legal provision was found not to contradict the Constitution of the Russian Federation, as its constitutional and legal meaning because in its constitutional and legal meaning it implies that if there is an entered into legal force court decision on an administrative offense, which concludes that it is impossible to apply to a foreign national administrative expulsion from the Russian Federation due to the circumstances of his family life, while the imposition of such punishment for the corresponding administrative offense is mandatory by virtue of the Code of Administrative Offenses of the Russian Federation, when appealing the decision of the authorized body not to allow entry into the Russian Federation, issued in respect of the same foreign national for the same violation of migration law, the court must assess the possibility of applying a prohibition on entry into the Russian Federation, taking into account the negative consequences of this prohibition for ensuring the right to respect for the family life of a foreign national previously established by the court, regardless of the formal compliance of the authorized agency's decision with the law.