

By the Judgement of 11 January 2022 No 1-II/2022 the Constitutional Court assessed constitutionality of Article 1102, item 1 and Article 1109, sub-item 3 of the Civil Code of the Russian Federation.

The said interconnected provisions became subject to examination insofar as they served as basis to decide on levying excessive bonus payments from contract military servicemen or former contract military servicemen, where such payments were made to these persons under orders of competent officials and the right to such payments (including in the amount specified in relevant orders) was not afforded to said persons under normative acts regarding military allowances in force at the material time (i.e. these persons formally did not benefit from such right or had lost it).

The challenged interconnected provisions were recognised as not contravening the Constitution of the Russian Federation since within the current regulatory framework they do not imply possibility to levy as unjustified enrichment the monetary sums paid to such persons during their military service as additional bonuses within their monetary allowance under orders on monetary allowance adopted in violation of legislation in force at the material time, where nothing suggests bad faith of such servicemen or calculation mistake.

At that, bad faith of serviceman shall not be presumed only on the basis of his apparent knowledge of normative regulatory framework on military servicemen monetary allowance and him not informing the direct commander (commanding officer) or higher official about the lack of legal basis for relevant payments.

In turn, the calculation mistake shall not include actions (omission) of officials responsible for calculation and payment of monetary allowance to contract military servicemen that had led to a serviceman receiving bonus payments within monetary allowance (including in the amount specified in the order of competent official) the right to which was not afforded to the said serviceman under normative regulation in force at the material time.