

By the Judgement of 13 January 2022 No. 2-II/2022 the Constitutional Court of the Russian Federation assessed constitutionality of provisions of Article 3, part 7 of the of the Federal Law “On compensation for Violation of the Right to Trial Within Reasonable Time or the Right to Execution of a Court Judgement Within Reasonable Time” and Article 250, part 5 of the Code of Administrative Procedure of the Russian Federation.

These provisions became subject to examination insofar as they served as basis to decide upon the conditions for lodging and examining the new (repeated) administrative claim of an accused (suspect) seeking compensation for violation of the right to criminal proceedings within reasonable time that has been lodged after adoption of a judicial decision on the previous claim for such compensation.

The challenged provision were recognised to be in violation of the Constitution of the Russian Federation insofar as according to their interpretation by courts they prevented an accused (suspect) from lodging relevant claim before four years have passed from the end of time period considered by the previous judicial decision granting or refusing such compensation.

Pending introduction of the necessary legislative amendments the courts shall not refuse to accept for consideration the new (repeated) claims of accused (suspects) seeking compensation for violation of the right to trial within reasonable time, or discontinue administrative proceedings upon such claim, where such claim has been lodged after one year has passed from final judicial decision granting or refusing previous claim. Where a decision ordering discontinuation of a criminal case or criminal prosecution has been taken, where a prosecutor has remitted the criminal case for additional inquiry or redrafting of indictment, where a court has returned the criminal case to a prosecutor for elimination of deficiencies for its examination by court, the new (repeated) claim for such compensation can be lodged before expiration of this one year term.

Nevertheless, the circumstances completely repeating those indicated in the previous claim cannot serve as ground to decide upon the issue of compensation under the new (repeated) claim. The consideration shall include all the circumstances regarding criminal case as a united set of events, including the complete period of the prosecution (investigation, trial etc.), taking into account the possibility of new meaning attributed to previously considered circumstances, by new events or law enforcement acts that took place during the period not considered previously. Lodging a new (repeated) compensation claim shall not require lodging a new application for hastening the consideration of the case.