

**By the Judgement of 19 April 2022 No. 16-II the Constitutional Court of the Russian Federation assessed constitutionality of Article 389.2, part 2 and part 3 of the Criminal Procedure Code of the Russian Federation.**

These provisions in their connection were subject to consideration to the extent that on their basis it is allowed to resolve the issue of an appeal against judgements (decisions) of the first-instance court that hearing the criminal case against a defendant held in custody to refuse to send him to a medical examination for establish his disease, included in the list of severe diseases that prevent detention in custody.

The challenged provisions were recognized to be in violation of the Constitution of the Russian Federation insofar according to them the absence of a final court decision in the case prevents an appeal against the judgment (decision) of the court of first instance to refuse to send a defendant held in custody for a medical examination conducted in accordance with the procedure established by Russian Federation Government Decree No. 3 of 14 January 2011 "On Medical Examination of Suspects or Accused of a Crime" to establish the presence of a disease included in the above list of severe diseases.

The Constitutional Court determined the procedure for the execution of this Judgement (pending appropriate legislative changes):

In cases as a result of the first-instance court's assessment of the defendant's state of health on the basis of objective medical data and other evidence, no signs of a disease that prevents further detention have been established, the legality and validity of the first-instance court's decision to deny (to consider) the defendant or his legal representative or counsel's request for a medical examination is subject to review by the appeals court when considering an appeal or representation against the court's decision to extend the period of detention in custody;

In cases as a result of the first-instance court's assessment of the defendant's state of health on the basis of objective medical data the defendant has signs of a disease that prevents further detention then the court judgement (decision) based on other evidence to refuse to send the defendant for a medical examination for the presence (absence) of his disease, included in the list of severe diseases is subject to a separate appeal before the final judgement in the case is rendered.

The Constitutional Court concluded that there were no grounds for reviewing the court decisions rendered against the applicant and there were no grounds for applying compensatory mechanisms against her.