

By the Judgement of 8 November 2023 No.51-II, Constitutional Court of the Russian Federation assessed constitutionality of Article 82 (item 9 of part 3) of the Federal Law “On Service in Bodies of Internal Affairs of the Russian Federation and Amendments to Certain Legislative Acts of the Russian Federation”

The above-mentioned legal provision has been considered to the extent that, on the basis of it, the court decides the question of reinstatement in the service of internal affairs bodies of a citizen who has been dismissed in connection with the commission of a misconduct defaming the honour of an official of internal affairs bodies, if the circumstances in connection with which his actions (omissions) are recognised as such misconduct also became the basis for the initiation of a criminal case against this citizen, which resulted in an acquittal (decision to discontinue the criminal case).

The contested provision was found not to be in contradiction with the Constitution of the Russian Federation, since in its constitutional and legal meaning in the system of the current legal regulation it implies that when a court considers a civil case on the reinstatement of such a citizen in the internal affairs bodies under the specified circumstances that:

the fact that a court has established that the procedure for dismissal of an internal affairs officer from service has been complied with, including the existence at the time of the decision on such dismissal of data sufficient for its adoption, cannot be the basis for a conclusion on the lawfulness of the dismissal without taking into account the termination of the criminal proceedings against the person by an acquittal, whereas the mere fact of such an acquittal constitutes grounds for a citizen to apply to the court for reinstatement, the period for such an application being calculated from the date on which the acquittal took effect;

if the acquittal contains a finding that it has not been proved that a person committed certain actions relating to the event of the offence in question, on the basis of which the competent authority had previously decided to dismiss that person for having committed an offence defaming the honour of an internal affairs officer, that finding shall be binding on the court hearing the case for the reinstatement of the dismissed officer, in the sense that there are no grounds for considering that the act in question was committed in the sense in which it was described;

if the court considers that the termination of the criminal case against a previously dismissed official by an acquittal does not affect the question of the

legality of his dismissal, it must justify its position in the light of the acquittal, which contains the conclusion that the fact that the person committed certain acts has not been proven, and specify in the decision which acts of the dismissed official constitute the elements of misconduct defaming the honour of an internal affairs officer and constituting grounds for his dismissal.