

By the Judgement of 12 January 2023 No. 2-II, Constitutional Court of the Russian Federation assessed constitutionality of Note 1 to Article 158, part 1 of the Criminal Code of the Russian Federation and Article 227 of the Civil Code of the Russian Federation.

These legal provisions were the subject of consideration insofar as, in their interrelation and according to the meaning given to them by law enforcement practice, they serve as the basis for criminal liability for theft in the case of unlawful conversion of property known to belong to another person for the benefit of the finder or other persons, thus causing damage to the owner or other owner of this property.

The challenged legal provisions were found not to contradict the Constitution of the Russian Federation, because in their interrelation according to the constitutional and legal meaning in the system of current legal regulation they assume that the objective side of larceny in the form of theft of found property, knowingly owned by another person and having no signs of abandonment, forms a single complex act consisting of taking possession (establishment of actual possession) of found another's property, connected with its concealment or hiding the source of its obtaining, its belonging to another person or its identifying features, for its secret turn for its own benefit or for the benefit of other, unauthorized persons, thus causing damage to the owner or other legal owner of this property, as well as secretly taking possession of another's property with the same objectives, when the person who took possession of it, observed its loss by the owner or other legal owner and had a real opportunity to immediately inform him about the loss and return it to him. The mere failure to perform the actions provided for in paragraphs 1 and 2 of Article 227 of the Civil Code of the Russian Federation, if they do not contain the specified characteristics, does not give rise to liability for theft.

The Constitutional Court separately noted that judicial decisions rendered in the applicants' cases on the basis of the challenged legal provisions, as well as judicial decisions that entered into force based on these legal provisions, rendered in cases of other persons, are subject to review in accordance with the established procedure. The Presidium of the Supreme Court of the Russian Federation is entitled to leave the relevant judicial decisions unchanged if they are based on an interpretation of these legal provisions that does not diverge from their constitutional and legal meaning, as revealed in this Judgement.