

By the Judgement of 13 November 2023 No.52-II, Constitutional Court of the Russian Federation assessed constitutionality of item 2 of the Notes to Article 222¹ of the Criminal Code of the Russian Federation

The above-mentioned legal provision, which is in normative unity with the Article 222¹ (parts 1 and 2) of the Criminal Code, was the subject of consideration insofar as, on its basis, the system of current legal regulation resolves the question of whether a citizen can be held criminally liable, in accordance with such provisions, for the illegal possession and sale of gunpowder intended for the independent provision by citizens of ammunition for civilian long-barrelled firearms.

The contested legal provision was found not to be inconsistent with the Constitution of the Russian Federation, since in its constitutional and legal meaning in the system of current legal regulation it classifies as explosives gunpowder intended for ammunition for civilian long-barrelled firearms, provided that such gunpowder has been lawfully acquired by the accused and subsequently unlawfully stored and/or sold by him in quantities which do not give rise to doubts as to its intended use for personal purposes, unless there are reasonable grounds to doubt its sale for use by the purchaser for the same purpose. In order to ensure fairness and proportionality in the criminal-law assessment of such an offence, instruments such as those provided for in the Criminal Code may be used, such as deciding whether the offence charged against a person is insignificant (Article 14, part 2), imposition of a sentence less severe than that prescribed by the legislator, including below the minimum threshold (Article 64), suspended sentence (Article 73) and changing the category of the offence to a less serious one (Article 15, part 6); and this combination of facts should be considered in itself, in the absence of legitimate obstacles to be taken into account, as a circumstance which significantly reduces the degree of public danger posed by the act incriminated against the person, or which justifies a refusal to hold him or her criminally liable.